

11-29-2010

# Idaho Development, LLC v. Teton View Golf Estates, LLC Clerk's Record v. 6 Dckt. 37771

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IN THE

volume 6 of 7

LAW CLERK

SUPREME COURT

OF THE

STATE OF IDAHO

IDAHO DEVELOPMENT, LLC

Plaintiff \_\_\_\_\_ and

Appellant  
vs

SEE AUGMENTATION RECORD

ROTHCHILD PROPERTIES, L.L.C.,

Defendants \_\_\_\_\_ and

Respondents

Appealed from the District Court of the \_\_\_\_\_ Seventh \_\_\_\_\_ Judicial

District of the State of Idaho, in and for \_\_\_\_\_ Bonneville \_\_\_\_\_ County

Hon. \_\_\_\_\_ Jon J. Shindurling \_\_\_\_\_ District Judge

FILED - COPY

RECEIVED

Attorney for Appellant

Attorney for Respondent

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Clerk

By \_\_\_\_\_ Deputy

37771

7TH JUDICIAL DISTRICT  
BONNEVILLE COUNTY, IDAHO  
10 MAY -4 PM 2:56

Alan R. Harrison  
ALAN R. HARRISON LAW, PLLC  
497 N. Capital Ave, Suite 210  
Idaho Falls, Idaho 83402  
Telephone: (208) 552-1165  
Fax: (208) 552-1176  
(ISB#: 6589)

Attorney for Plaintiff

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

IDAHO DEVELOPMENT, LLC, a  
Utah limited liability company,

Plaintiff,

vs.

TETON VIEW GOLF ESTATES, LLC,  
a Utah limited liability company;  
ROTHCHILD PROPERTIES, LLC, a  
Utah limited liability company;  
WESTERN EQUITY, LLC, a Utah  
limited liability company;  
AMERITITLE COMPANY; ZBS,  
LLC, an Idaho limited liability  
company; DEPATCO, INC., an Idaho  
Corporation; SCHIESS &  
ASSOCIATES, P.C., an Idaho  
Professional Service Corporation; HD  
SUPPLY WATERWORKS, LTD.;  
DOES 1-3, and ALL PERSONS IN  
POSSESSION OF REAL PROPERTY  
DESCRIBED HEREIN,

Defendants.

Case No. CV-08-4395

**AFFIDAVIT OF MELINDA  
BOSWELL IN SUPPORT OF  
MOTION TO RECONSIDER**

STATE OF UTAH )

County of Washington ) ss.

I, Melinda Boswell, being first duly sworn, states:

1) I am the manager of Idaho Development, LLC who is the Plaintiff in the above case. I am over eighteen years of age and am competent to testify in this matter. I make the following statements from personal knowledge. If called as a witness in open court, I would testify in accordance with the statements set out.

2) The documents which are attached as Exhibit A are true and correct copies of the bank records for the account opened at Key Bank after forming Teton View and are incorporated herein by reference as if set forth fully herein.

3) The document which is attached as Exhibit B is a true and correct copy of the proposed budget for Teton View Golf Estates is incorporated herein by reference as if set forth fully herein.

4) I received interest payments on my loan of \$1,100,000 for the months of March 2008 to August 2008. I received interest payments on \$1,025,000 for the months of September and October 2008. I only received \$550 of my \$5,125 interest payment due in November 2008.

5) I received \$10,000 from Teton View for agreeing to extend my loan one month beyond the maturity date of May 28, 2008.

Dated this 4<sup>th</sup> day of May, 2010.

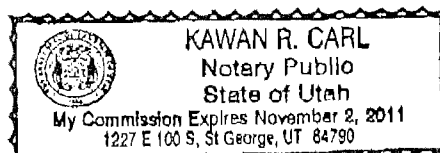
Melinda Boswell  
Melinda Boswell

Subscribed and sworn to before me on this 4 day of May, 2010.

Kawan R. Carl  
Notary Public for Utah

Residing at: St. George

My Commission Expires: 11/2/2011



AFFIDAVIT OF MELINDA BOSWELL IN SUPPORT OF MOTION TO RECONSIDER - 2



## Deposit Receipt for KEY BUSINESS FREE CHECKING

TETON VIEW GOLF ESTATES, LLC  
2858 WILLOW CREEK DR  
SANDY, UTAH 84093-2049

We are pleased that you have selected KeyBank. The information below is a confirmation of your new account(s) with us and a commitment to provide you with the highest quality of service.

### KEY BUSINESS FREE CHECKING

Account Number	[REDACTED]	Date Opened	FEB 29, 2008
Social Security #	[REDACTED]	VARIABLE Interest Rate	N/A %
Opening Deposit	[REDACTED]	Annual Percentage Yield	N/A %

This Account is governed by the provisions of the Deposit Account Agreement established by the Bank at which you opened your Account. Including but not limited to withdrawal; penalties for early withdrawal from Certificate of Deposit Accounts; variable rate determination and rate changes, where applicable; payment of interest; joint accounts; pledging the account as collateral; renewal; the transferability or non-transferability of the Account; taxpayer identification numbers and backup withholding; and by such Bank's Personal Deposit Account Fees and Disclosures. A Retirement Account opened in connection with a Bank retirement plan also is subject to such Bank's retirement plan agreement or plan document and the Retirement Account Deposit Disclosure. All Accounts are subject to applicable federal and state laws and regulations.

No checks will be enclosed within the statement

Thank you for visiting the DAYBREAK Key Center  
CLINTON J. THOMPSON  
11422 S DISTRICT DR  
SOUTH JORDAN, UT 84095  
801-495-5420



KeyBank is:



Member FDIC

Key.com

1-800-KEY2YOU



## BUSINESS/NON-PERSONAL SIGNATURE CARD

Legal Title of Account: TETON VIEW GOLF ESTATES, LLC			KeyCenter #: 238 DAYBREAK	Account #: 442380000921	
			Product Code: B_KBUSFREECHK	Sub Product Code: 09	Package Code:
Statement Mailing Address: 2858 WILLOW CREEK DR			Source Of Funds: EXTERNAL-NON-KEY BROKER/MUT'L FUND	SIC Code:	Sales Volume:
			Business Phone: (801) 916-9200		
City: SANDY	State: UTAH	Zip Code: 84093-2049	Officer Code: CJT0Z		
Open Date: FEB 29, 2008	Opening Deposit: \$250.00	Opened By:	KeyCenter Phone #: (801) 495-5420		
Signer's Name		Title	Social Security #	Signature	
LYNN C SPAFFORD					
MELINDA C BOSWELL					
Business Email Address					
B1					
B2					
B3					
Signer's Email Address					
S1					
S2					
S3					
S4					
S5					

KeyBank National Association, hereafter the "Bank", is authorized to recognize any of the signatures subscribed above for the transaction of any business for this Account in connection with funds belonging to the Entity to whom this Account is titled (the "Entity"). The undersigned acknowledge(s) receipt of a copy of the Deposit Account Agreement and Disclosures governing this Account.

It is agreed that all transactions on this Account shall be subject to the Deposit Account Agreement and Disclosures as well as any amendments Thereto hereafter made. By executing this signature card, each signer shall be bound by the terms and conditions of said Deposit Account Agreement and Disclosures. It is further agreed that the Bank may conclusively assume that the authority of each signer shall continue as such until receipt by the Bank of written notice to the contrary, consistent with the authority designated by the corporate or non-corporate depository certificate or resolution on file, such notice to be given to each office of the Bank in which this Account is maintained. Until such notice is actually received, the authority conferred herein to the above noted signatories shall remain in full force and effect and the Bank shall be indemnified and saved harmless from any loss suffered or liability incurred by it in continuing to act in pursuance of this signature card.

I certify that the above are the true and genuine signatures of authorized signer(s) with their respective title, authorized to sign for the Entity.

*Under penalties of perjury, the undersigned certifies that 1) the number shown on this form is the Entity's correct taxpayer or employer identification number (or the Entity is waiting for a number to be issued), and 2) the Entity is not subject to backup withholding because: (a) the Entity is exempt from backup withholding, or (b) the Entity has not been notified by the Internal Revenue Service that it is subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified the Entity that it is no longer subject to backup withholding, and 3) I am a U.S. citizen or other U.S. person (defined below).*

*Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:*

- An individual who is a U.S. citizen or U.S. resident alien,*
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,*
- An estate (other than a foreign estate), or*
- A domestic trust (as defined in Regulations section 301.7701-7).*

*The undersigned must cross out item (2) above if the Entity has been notified by the IRS that it is currently subject to backup withholding Because of under-reporting interest or dividends on its tax return. Tax Identification Number: 52-8257748*

*Refer to the list of payees exempt from backup withholding and for which no information reporting is required. If this entity is exempt from backup withholding and information reporting under IRS regulations, enter your correct TIN in the previous section and check here:*

*If you are a foreign person, cross out above certification section and U.S. Person on the line under your signature below. Complete the appropriate Form W-8.*

*The Internal Revenue Service does not require your consent to any provisions of this document other than the certifications required to avoid backup withholding.*

IN WITNESS WHEREOF, I have set my hand at

SOUTH JORDAN                      UTAH                      this                      day of                      , 20                       
City                      State

BY                      Signature of U.S. Person                      Title

Business ID Type: ORGANIZATIONAL PAPERS		Business ID Details: ARTICLES	
Business ID State/Country of Issuance: UTAH			
Personal ID/ Comments: DRIVERS LICENSE		MAJOR CREDIT CARD	
For Bank Use Only	New Account Verification	Type of Account	Status
Verified By	Waived By	<input checked="" type="checkbox"/> Checking Account	<input type="checkbox"/> Statement Saving
ChexSystems		<input type="checkbox"/> Money Market Chk	<input type="checkbox"/> Money Market Sav
Phone No.		<input type="checkbox"/> Certificate of Deposit	<input checked="" type="checkbox"/> Limited Liability Company
Other			<input type="checkbox"/> Formal Trust <input type="checkbox"/> Estate <input type="checkbox"/> Other
Certificate or Resolution Filed		Check One	
Date:	Location:	Sig. Req.:	<input checked="" type="checkbox"/> New <input type="checkbox"/> Change of Signers Effective Date:

**Payees and Payments Exempt from Backup Withholding.** - The following is a list of payees exempt from backup withholding and for which no information reporting is required. For interest and dividends, all listed payees are exempt except item 9. For broker transactions, payees listed in 1 through 13, and a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker are exempt.

Payments subject to reporting under sections 6041 and 6041A are generally exempt from backup withholding only if made to payees described in items 1 through 7, except a corporation that provides medical and health care services or bills and collects payments for such services in not exempt from backup withholding or information reporting. Only payees described in items 2 through 6 are exempt from backup withholding for barter exchange transactions, patronage dividends, and payments by certain fishing boat operators.

1. A corporation.
2. An organization exempt from tax under section 501(a), or an IRA, or a custodial account under section 403(b)(7).
3. The United States or any of its agencies or instrumentalities.
4. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities.
5. A foreign government or any of its political subdivisions, agencies or instrumentalities.
6. An international organization or any of its agencies or instrumentalities.
7. A foreign central bank of issue.
8. A dealer in securities or commodities required to register in the United States or a possession of the United States.
9. A futures commission merchant registered with the Commodity Futures Trading Commission.
10. A real estate investment trust.
11. An entity registered at all times during the tax year under the Investment Company Act of 1940.
12. A common trust fund operated by a bank under section 584(a).
13. A financial institution.
14. A middleman known in the investment community as a nominee or listed in the most recent publication of the American Society of Corporate Secretaries, Inc., Nominee List.
15. A trust exempt from tax under section 664 or described in section 4947.

# Small Business Checking Account Fees and Disclosures

Utah

Effective April 20, 2007

KeyBank National Association

Member FDIC



Today's Date Is February 29, 2008

## KEY BUSINESS FREE CHECKING ACCOUNT

This *Small Business Checking Account Fees and Disclosures* ("Disclosure") provides information about deposit accounts we offer. At the discretion of Bank officers, specific product features may vary from those stated here. Any agreement which varies these product features supersedes this *Small Business Checking Account Fees and Disclosures*. A copy of the current *Small Business Checking Account Fees and Disclosures* may be obtained upon request at all offices of the Bank. Current Interest Rate Information may be obtained by contacting your nearest KeyCenter or by calling 1-888- KEY4BIZ® (1-888-539-4249).

Important: All Accounts are subject to the fees listed in the **OTHER CHARGES** section.

## KEY BUSINESS FREE CHECKING ACCOUNT

### Description:

An economical checking Account that is ideal for business owners with low monthly transaction activity.

Minimum deposit to open the Account:

\$250.00

Earnings Credit is not computed on this checking Account.

### Service Charges:

There is no monthly Maintenance Service Charge for a Key Business Free Checking Account. Your Account will be charged \$0.25 each for any combination of Check(s)/Withdrawal(s) Paid and/or Deposited Item(s) in excess of 200 during the monthly statement period.

If you have your checks returned with your statement, your Account will be charged a \$3.50 Enclose Item(s) with Statement Charge per statement period.

## OTHER CHARGES

### EXCESS TELEPHONE INQUIRY SERVICE CHARGE

If you call 1-800-KEY2YOU® (1-800-539-2968) this charge applies to all types of Business Checking Accounts excluding analyzed accounts.)

If the number of automated (a call during which you do not speak to an employee) telephone calls for general account information exceeds eight (8) per statement period, your Checking Account will be charged \$0.75 per call. If the number of employee assisted (a call made directly to an employee or transferred from an automated telephone inquiry) telephone calls for general account information exceeds three (3) per statement period, your Checking Account will be charged \$1.50 per call. If you request general account information on more than one account during the same telephone call each account is treated as a separate telephone call and may be assessed a charge as described above. General account information includes account balance, checks that have been paid, electronic transactions that have been paid, deposits that have been made and interest information. If your request for general account information results in a request for service, such as a copy of an item or a stop payment, no charge for the employee assisted request for general account information will apply and the call will not be counted towards the limits described above. However, any applicable charges for the services requested will apply.

## SERVICE CHARGES IN CONNECTION WITH AN ACCOUNT:

Charges may vary for Analyzed Accounts)

- Account Reconciliation Charge Varies
- Banking Card Charges: There are charges for certain types of Bank Card transactions. Please refer to the Bank's *Small Business Debit Card Cardholder Agreement* for the description and amount of each type of transaction charge.
- Charge for Handling Legal Process
  - Garnishment/Levy \$25.00
  - Subpoena Hourly Rates Vary for Research
- Charge for Account Early Close-out (Account Closed within 180 days after opening) \$25.00
- Charge for Copy of Item(s)
  - Safekeeping (Up to 12 copies of canceled checks per calendar year): No Charge
  - Charge for Each Copy in excess of 12 per calendar year: \$3.00
  - Non-safekeeping
    - Charge for Each Copy of a Check: \$3.00
- Charge for Copy of Statement(s) \$6.00
- Charge for Special Statement \$6.00
- Charge for Night Drop
  - Standard Night Bag Drop No Charge
  - Canvas/Non-Standard Night Bag Drop \$6.00
- Charge for Night Drop Bag(s) \$15.00
- Branch Roll Out Fee \$0.10 per roll
- Branch Strap Out Fee \$0.40 per strap
- Chargeback Fee (Deposited Item Returned) \$6.00
- Redeposited Item Charge \$5.00
- Returned Statement Charge

If your statement is returned to the bank due to an incorrect address, your Account will be assessed a \$10.00 Returned Statement Charge.

For each month that follows (months two through a maximum of 12 consecutive months) where a current address has not been provided, a

**Statement Information Safekeeping Fee** of \$10.00 per month will be assessed

### Overdraft and Return Item Charges:

Overdraft Item Charges and Return Item (NSF) Charges will be assessed to your Account according to the tiered transaction limits described below.

We will count each overdraft and returned item over a rolling 12 statement period (current statement period and previous 11 statement periods) to determine the charge to be assessed.

Tier	#OD/NSF Transactions	OD/NSF Per Item Charge
1	1-2	\$32.00
2	3-6	\$35.00
3	7 and above	\$36.50

• Recurring Overdraft Service Charge - In addition to a base overdraft service charge (and excess overdraft charge, if any) assessed for each item that



overdraws your Account, if your Account remains overdrawn for five consecutive business days your Account will be assessed a Recurring Overdraft Service Charge of \$28.50 and will be charged \$28.50 on every five business days thereafter until your Account balance becomes positive (including the payment of all outstanding fees) or until the Account is closed.

- Stop Payment Charge (for each stop payment or to renew a stop payment on a check/withdrawal) \$32.00
- To stop payment or to renew a stop payment on a range of checks (multiple items in sequence) \$32.00
- Telephone Funds Transfer Charge \$2.50
- Incoming Wire Transfer Notification Fee - For non-analyzed accounts, if you have requested that you be notified by phone of incoming wire transfers, each incoming wire transfer charge will be increased by \$5.00. If your Account is on analysis, the \$5.00 Incoming Wire Transfer Notification Fee will appear on your analysis statement separate from the Incoming Wire Transfer Charge.
- Fedwire Service Charge
  - Incoming (domestic and International) \$15.00
  - Domestic Outgoing \$20.00
  - International Outgoing \$35.00
  - Special Handling (for analyzed accounts) \$10.00
- Special Instructions Charge - This monthly charge of \$9.00 will apply to any business customer who requests special handling of returned deposited items for Checking and Savings Accounts.

**OTHER SERVICE CHARGES (INCLUDE, BUT ARE NOT LIMITED TO):**

- Deposited Currency Charge rate of \$0.17 per \$100.00 deposited in excess of \$5000.00 deposited per day
- Charge for Foreign Draft \$10.00
- Safe Deposit Box Rental Charge Varies based on size of box
- Safe Deposit Lock Replacement Cost Varies



T 0238 00000 R EM T1  
TETON VIEW GOLF ESTATES, LLC  
2858 WILLOW CREEK DR  
SANDY UT 84093-2049

**Questions or comments?**  
Call our Key Business Resource Center  
1-888-KEY4BIZ (1-888-539-4249)

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**Enroll in Online Banking today at Key.com.**  
**Access your available accounts, transfer funds and view your transactions right from your PC.**

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## KeyNotes

### IMPORTANT NOTICE OF CHANGES TO YOUR FUNDS AVAILABILITY POLICY

As a result of the Federal Reserve Banks' reduction in the number of locations at which they process checks, effective February 23, 2008, the KeyBank National Association Funds Availability Policy was revised. The Local Check routing number table in the section titled OTHER CHECK DEPOSITS TO ALL OTHER TYPES OF BUSINESS DEPOSIT ACCOUNTS NOT LISTED ABOVE IN SECTION NUMBER 4, in the KeyBank Funds Availability Policy is revised. Checks with the routing numbers listed below that previously would have been treated as non-local check deposits will now be treated as local check deposits. For checks deposited in KeyBank branches in the states listed, the additional routing numbers are as follows:

Ohio(Ashtabula, Carroll, Columbiana, Cuyahoga, Defiance, Erie, Franklin, Fulton, Geauga, Hancock, Huron, Lake, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Wood counties) 0220, 0223\*, 2220, 2223\*  
Michigan 0220, 0223\*, 2220, 2223\*  
New York(Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Steuben, Wayne, Wyoming, Yates counties) 0220, 0223, 0412\*, 0441\*, 0442\*, 0724\*, 2220, 2223, 2412\*, 2441\*, 2442\*, 2724\*  
Connecticut(Fairfield) 0213, 2213

Funds from deposits of local checks will be available on the first business day after the day of your deposit unless the routing number listed above is denoted with the asterisk(\*). If the routing number is denoted with an asterisk(\*), then the first \$100 of your deposit will be available on the first business day after the day of your deposit, and the remaining funds will be available on the second business day after the day of deposit.

The rest of the Funds Availability Policy remains unchanged. A complete

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**KeyNotes** (con't)

*copy of the revised Funds Availability Policy is available at any KeyBank branch.*

*PLEASE RETAIN THIS IMPORTANT INFORMATION FOR YOUR RECORDS.*

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**Key Business Free Checking 442380000921**  
TETON VIEW GOLF ESTATES, LLC

Beginning balance 2-29-08	\$ .00
Ending balance 2-29-08	\$ .00

## CONSUMER ACCOUNT DISCLOSURES

The following disclosures apply only to accounts covered by the Federal Truth-in-Lending Act or the Federal Electronic Funds Transfer Act, as amended, or similar state laws.

**IN CASE OF ERROR OR QUESTIONS ABOUT YOUR ELECTRONIC TRANSFERS:**

Call us at the phone number indicated on the first page of this statement, OR write us at the address listed there, as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than sixty (60) days after we sent you the FIRST statement on which the problem or error appeared.

- Tell us your name and Account number ;
- Describe the error or transfer that you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information;
- Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your complaint or question in writing within ten (10) business days.

We will investigate your complaint and will correct any error promptly. If we take more than ten (10) business days to do this, we will recredit your account for the amount you think is in error, so that you will have use of the money during the time it takes us to complete our investigation.

COMMON ELECTRONIC TRANSACTION DESCRIPTIONS:

XFER TO SAV	- Transfer to Savings Account
XFER FROM SAV	- Transfer from Savings Account
XFER TO CKG	- Transfer to Checking Account
XFER FROM CKG	- Transfer from Checking Account
PMT TO CR CARD	- Payment to Credit Card
ADV CR CARD	- Advance from Credit Card

**Preauthorized Credits:** If you have arranged to have direct deposits made to your Account at least once every sixty (60) days from the same person or company, you can call us at the number indicated on the reverse side to find out whether or not the deposit has been made.

### IMPORTANT LINE OF CREDIT INFORMATION

**Billing Rights Summary: In case of Error or Questions About Your Bill:** If you think your statement is wrong, or if you need more information about a transaction on this statement, write us on a separate sheet at the address shown on your statement as soon as possible. We must hear from you no later than sixty (60) days after we sent you the FIRST statement on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number;
- The dollar amount of the suspected error;
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

You do not have to pay any amount in question while we are investigating, but you are still obligated to pay the parts of your bill that are not in question. While we investigate your question, we cannot report you delinquent or take any action to collect the amount you question.

**Explanation of Finance Charge:** Your Finance Charge is computed on all cash advances from the date each cash advance is made until we receive payment in full. We figure the Finance Charge on your line of credit by applying the daily periodic rate to the "Average Daily Balance" (Finance Charge Balance) of your line of credit including current transactions. To get the average daily balance we take the beginning balance of your line of credit each day, add any new cash advances or debits, and subtract any payments or credits, fees and unpaid Finance Charge. This gives us your daily balance. Then we add up all daily balances and divide this total by the number of days in the billing cycle to get the average daily balance. Then we multiply the average daily balance by the daily periodic rate times the number of days in the billing cycle. The Daily Periodic Rate is figured by dividing the Annual Percentage Rate by the number of days in a year (365/366 days).

**CREDIT INFORMATION.** If you believe we have reported inaccurate information about your account to a credit reporting agency, you may contact the credit reporting agency or write to us at:

Key Credit Research Department  
P.O. Box 94518  
Cleveland, Ohio 44101-4518

Please include your account number, a copy of your credit report reflecting the inaccurate information, name, address, city, state, and zip code, and an explanation of why you believe the information is inaccurate.

## BALANCING YOUR ACCOUNT

Please examine your statement and canceled checks upon receipt. Erasures, alterations or irregularities should be reported promptly in accordance with your account agreement. The suggested steps below will help you balance your account.

## INSTRUCTIONS

- 1 **Verify and check off in your check register** each deposit, check or other transaction shown on this statement.
- 2 **Enter into your check register and SUBTRACT:**
  - Checks or other deductions shown on our statement that you have *not* already entered.
  - The "Service charges", if any, shown on your statement.
- 3 **Enter into your check register and ADD:**
  - Deposits or other credits shown on your statement that you have *not* already entered.
  - The "Interest earned" shown on your statement, if any.

[illegible]

**6** List any deposits from your check register that are *not* shown on your statement.

Date	Amount
<b>TOTAL</b> + \$	

**6** Enter ending balance shown on your statement.

\$	
----	--

**7** Add 5 and 6 and enter total here.

\$	
----	--

**8** Enter total from 4.

\$	
----	--

**9** Subtract 8 from 7 and enter difference here.

\$	
----	--

This amount should agree with your check register balance.



2 RTM1X T 0238 00000 R EM T1  
TETON VIEW GOLF ESTATES, LLC  
2858 WILLOW CREEK DR  
SANDY UT 84093-2049

*Questions or comments?*  
Call our Key Business Resource Center  
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**Enroll in Online Banking today at Key.com.**  
**Access your available accounts, transfer funds and view your transactions right from your PC.**

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### KeyNotes

*Make taxes less taxing.*

*With KeyTax® your business can pay federal, state and most local taxes online or by phone.*

*It's convenient.*

- \* Available anytime
- \* No payment coupons
- \* No check writing
- \* No trips to the bank

*It's secure.*

- \* Confidential access code and PIN
- \* Confirmation tracking number provided real-time
- \* IRS confirmation number provided for federal payments within one business day of payment

*Proof of payment available via mailed or faxed receipts*

*It's flexible.*

- \* Schedule payments up to 30 days in advance
- \* Schedule payment options to suit your business needs

*Try Key Bill Pay. You could win \$1,000.*

*Take it easy this month and discover a more convenient way to pay bills. Use Key Bill Pay to complete three online payments between March 1 and March 31, 2008, to be automatically entered in the Key Bill Pay sweepstakes. The winner will receive \$1,000. Just enroll in (or log on to) Key's Online Banking and you're ready to set up your payees and start paying bills.*

*For more sweepstakes information, including the official rules, visit [www.Key.com/1000](http://www.Key.com/1000).*

**Key Business Free Checking 442380000921**

TETON VIEW GOLF ESTATES, LLC

Beginning balance 2-29-08	\$ .00
1 Addition	+ 135,000.00
3 Subtractions	-25,874.51
<b>Ending balance 3-31-08</b>	<b>\$109,125.49</b>

Additions	Deposits	Date	Serial #	Source	
		3-10		Customer Deposit	\$135,000.00
				<b>Total additions</b>	<b>\$135,000.00</b>

**Subtractions**

Paper Checks

\* check missing from sequence

998	3-18	\$20,000.00	*100	3-31	5,800.00	Paper checks paid	\$25,800.00
-----	------	-------------	------	------	----------	-------------------	-------------

Withdrawals	Date	Serial #	Location	
	3-26		Check/Supply Purchase	\$74.51
			<b>Total subtractions</b>	<b>\$25,874.51</b>

**IN CASE OF ERROR OR QUESTIONS ABOUT YOUR ELECTRONIC TRANSFERS:**

- Tell us your name and Account number ;
- Describe the error or transfer that you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information;
- Tell us the dollar amount of the suspected error

We will investigate your complaint and will correct any error promptly. If we take more than ten (10) business days to do this, we will recredit your account for the amount you think is in error, so that you will have use of the money during the time it takes us to complete our investigation.

XFER TO SAV	- Transfer to Savings Account
XFER FROM SAV	- Transfer from Savings Account
XFER TO CKG	- Transfer to Checking Account
XFER FROM CKG	- Transfer from Checking Account
PMT TO CR CARD	- Payment to Credit Card
ADV CR CARD	- Advance from Credit Card

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- The dollar amount of the suspected error;
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

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**Explanation of Finance Charge:** Your Finance Charge is computed on all cash advances from the date each cash advance is made until we receive payment in full. We figure the Finance Charge on your line of credit by applying the daily periodic rate to the "Average Daily Balance" (Finance Charge Balance) of your line of credit including current transactions. To get the average daily balance we take the beginning balance of your line of credit each day, add any new cash advances or debits, and subtract any payments or credits, fees and unpaid Finance Charge. This gives us your daily balance. Then we add up all daily balances and divide this total by the number of days in the billing cycle to get the average daily balance. Then we multiply the average daily balance by the daily periodic rate times the number of days in the billing cycle. The Daily Periodic Rate is figured by dividing the Annual Percentage Rate by the number of days in a year (365/366 days).

**CREDIT INFORMATION:** If you believe we have reported inaccurate information about your account to a credit reporting agency, you may contact the credit reporting agency or write to us at:

Key Credit Research Department  
P.O. Box 94518  
Cleveland, Ohio 44101-4518

## BALANCING YOUR ACCOUNT

## INSTRUCTIONS

- ① **Verify and check off in your check register** each deposit, check or other transaction shown on this statement.
- ② **Enter into your check register and SUBTRACT:**
  - Checks or other deductions shown on our statement that you have *not* already entered
  - The "Service charges", if any, shown on your statement.
- ③ **Enter into your check register and ADD:**
  - Deposits or other credits shown on your statement that you have *not* already entered.
  - The "Interest earned" shown on your statement, if any.

**4** List from your check register any checks or other deductions that are *not* shown on your statement.

[illegible]

**6** List any deposits from your check register that are *not* shown on your statement.

Date	Amount
TOTAL	\$

<p><b>⑥ Enter ending balance shown on your statement.</b></p>	
\$	

<p><b>7</b> Add 5 and 6 and enter total here.</p>	
\$	

③ Enter total from 4.	
\$	

<b>9</b>	Subtract 8 from 7 and enter difference here.
\$	
This amount should agree with your check register balance.	

KeyBank  
P.O. Box 22114  
Albany, NY 12201-2114

Business Banking Statement  
April 30, 2008  
page 1 of 2



10 02 T 0238 00000 R EM AO  
TETON VIEW GOLF ESTATES, LLC  
2858 WILLOW CREEK DR  
SANDY UT 84093-2049

**Questions or comments?**  
Call our Key Business Resource Center  
1-888-KEY4BIZ (1-888-539-4249)

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**Enroll in Online Banking today at Key.com.**  
**Access your available accounts, transfer funds and view your transactions right from your PC.**

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#### KeyNotes

*Choices! Choices! Choices! Effective March 31, 2008, KeyBank will offer new and refreshed check designs (more than 90 in all). Our new and exciting selection offers a variety of checking and deposit solutions to meet your business needs, including software compatible check designs, endorsement stamps, deposit tickets, security deposit bags, envelopes and more! Visit [www.key.com/orderchecks](http://www.key.com/orderchecks) or call 800-503-2345 to place your order today!*

*KeyBank now offers personalized stationery and accessories! Visit [www.RetailDirect.com/KeyBank](http://www.RetailDirect.com/KeyBank) for more details!*

---

Key Business Free Checking 442380000921  
TETON VIEW GOLF ESTATES, LLC

Beginning balance 3-31-08	\$109,125.49
10 Subtractions	-77,217.09
Net fees and charges	-10.00
<b>Ending balance 4-30-08</b>	<b>\$31,898.40</b>

#### Subtractions

*Paper Checks* \* check missing from sequence

✓1002	4-7	\$400.00	✓1008	4-14	3,000.00	✓1012	4-30	9,406.15
✓1004	4-7	150.00	✓1009	4-15	9,000.00	✓1013	4-24	10,000.00
✓1005	4-11	5,000.00	✓1010	4-17	5,800.00	<b>Paper checks paid</b>		<b>\$77,217.09</b>
✓1006	4-14	12,610.44	✓1011	4-30	21,850.50			

442380000921 - 04451  
38019

819





Fees and charges	Date		Quantity		Unit charge	
	4-29-08	Returned Statement Handling Charge	1	10.00		-\$10.00
		Fees and charges assessed this period				-\$10.00



KeyBank  
P.O. Box 22114  
Albany, NY 12201-2114

**Business Banking Statement**  
**May 31, 2008**  
page 1 of 4



7 T 0238 00000 R EM T1  
TETON VIEW GOLF ESTATES, LLC  
PO BOX 711946  
SALT LAKE CTY UT 84171-1946

*Questions or comments?*  
Call our Key Business Resource Center  
1-888-KEY4BIZ (1-888-539-4249)

---

**Enroll in Online Banking today at Key.com.**  
**Access your available accounts, transfer funds and view your transactions right from your PC.**

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### KeyNotes

#### *Important Information about the Return of Checks*

*If you are still receiving actual cancelled checks or image replacements of your cancelled checks, please be advised that this will be discontinued, effective with the first statement you receive dated after July 18, 2008.*

*Over the past few years, you may have begun to receive image replacements of your cancelled checks along with your periodic statements. Throughout the banking industry, the trend is to provide these images in lieu of actual checks. Improved technology fostered by the Check Clearing for the 21st Century Act (Check 21) is making the exchange of digital check images the standard, and is quickly eliminating the ability to return original cancelled checks.*

*In place of actual cancelled checks or image replacements of your cancelled checks, you will receive digital images of the front and back of each check (multiple images per page), conveniently organized by check number for your reference. This change applies to all deposit accounts and supersedes any agreement or understanding you may have with KeyBank to return physical checks with your periodic statement. There will be no fee change for the new image statement.*

*If you should require a copy of a specific check image, please feel free to contact us. Check images are retained on our secure system for the period specified by law.*

*If you prefer not to have check images displayed on your statement, online image-viewing options are available. Please feel free to contact your KeyBank representative for more information, using the phone number provided on this statement.*

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21479

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KeyNotes (con't)

*Please read and retain this information with all of your KeyBank Account Opening Agreements and Disclosures.*

*Key Business Online<sup>SM</sup>  
Productivity, simplified.*

*Introducing Key Business Online, a simple and powerful online banking tool that can help manage your business finances-and your time-more productively. With Key Business Online, you'll spend less time on administrative tasks and more time focusing on your business.*

*Key Business Online helps you:*

- \*View and manage all your Key accounts*
- \*Make payments and transfers more efficiently and securely*
- \*Delegate tasks to trusted associates*
- \*Manage financial information more easily*

*Try our interactive demonstration at [key.com/kbo](http://key.com/kbo) to see all the available Key Business Online features and functions. For more information, contact your Key Relationship Manager or call 1-888-KEY4BIZ(1-888-539-4249).*

*Personal and business banking: Better together.*

*With Key Total Banking, you'll enjoy convenient business and personal banking under one roof. Choose from a variety of specialized accounts designed to fit your needs, and get more banking done in less time. How will you spend the time you save?*

*To learn more, give us a call or visit your nearest KeyBank branch to speak to a banking Relationship Manager.*

*Take advantage of Key's limited time DOUBLE offer. Between May 1 and September 5, 2008, if you apply and are approved for a KeyBank Platinum Credit Card with the rebate or the rewards option, then you can receive a DOUBLE rebate or DOUBLE rewards on all gas, grocery, pharmacy and dining purchases for the next 6 months! Offer available only for newly approved accounts opened in the branch or call center. For more details, or to apply, visit your local branch or call 1-888-KEY-1234.*

Key Business Free Checking 442380000921  
TETON VIEW GOLF ESTATES, LLC

Beginning balance 4-30-08	\$31,898.40
1 Addition	+ 38.00
7 Subtractions	-30,700.00
<b>Ending balance 5-31-08</b>	<b>\$1,236.40</b>

Additions	Deposits	Date	Serial #	Source	
		5-22		Customer Deposit	\$38.00
				<b>Total additions</b>	<b>\$38.00</b>

**Subtractions**

*Paper Checks* \* check missing from sequence

1014	5-9	\$750.00	1017	5-22	5,800.00	1020	5-29	6,000.00
1015	5-6	4,400.00	1018	5-22	6,000.00	<b>Paper checks paid</b>		<b>\$30,700.00</b>
1016	5-14	5,000.00	1019	5-28	2,750.00			

## CONSUMER ACCOUNT DISCLOSURES

The following disclosures apply only to accounts covered by the Federal Truth-in-Lending Act or the Federal Electronic Funds Transfer Act, as amended, or similar state laws.

IN CASE OF ERROR OR QUESTIONS ABOUT YOUR ELECTRONIC TRANSFERS:

Call us at the phone number indicated on the first page of this statement, OR write us at the address listed there, as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than sixty (60) days after we sent you the FIRST statement on which the problem or error appeared.

- Tell us your name and Account number ;
- Describe the error or transfer that you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information;
- Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your complaint or question in writing within ten (10) business days.

We will investigate your complaint and will correct any error promptly. If we take more than ten (10) business days to do this, we will recredit your account for the amount you think is in error, so that you will have use of the money during the time it takes us to complete our investigation.

COMMON ELECTRONIC TRANSACTION DESCRIPTIONS:

XFER TO SAV	- Transfer to Savings Account
XFER FROM SAV	- Transfer from Savings Account
XFER TO CKG	- Transfer to Checking Account
XFER FROM CKG	- Transfer from Checking Account
PMT TO CR CARD	- Payment to Credit Card
ADV CR CARD	- Advance from Credit Card

**Preauthorized Credits:** If you have arranged to have direct deposits made to your Account at least once every sixty (60) days from the same person or company, you can call us at the number indicated on the reverse side to find out whether or not the deposit has been made.

### IMPORTANT LINE OF CREDIT INFORMATION

**Billing Rights Summary:** In case of Error or Questions About Your Bill: If you think your statement is wrong, or if you need more information about a transaction on this statement, write us on a separate sheet at the address shown on your statement as soon as possible. We must hear from you no later than sixty (60) days after we sent you the FIRST statement on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number;
- The dollar amount of the suspected error;
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

You do not have to pay any amount in question while we are investigating, but you are still obligated to pay the parts of your bill that are not in question. While we investigate your question, we cannot report you delinquent or take any action to collect the amount you question.

**Explanation of Finance Charge:** Your Finance Charge is computed on all cash advances from the date each cash advance is made until we receive payment in full. We figure the Finance Charge on your line of credit by applying the daily periodic rate to the "Average Daily Balance" (Finance Charge Balance) of your line of credit including current transactions. To get the average daily balance we take the beginning balance of your line of credit each day, add any new cash advances or debits, and subtract any payments or credits, fees and unpaid Finance Charge. This gives us your daily balance. Then we add up all daily balances and divide this total by the number of days in the billing cycle to get the average daily balance. Then we multiply the average daily balance by the daily periodic rate times the number of days in the billing cycle. The Daily Periodic Rate is figured by dividing the Annual Percentage Rate by the number of days in a year (365/366 days).

**CREDIT INFORMATION:** If you believe we have reported inaccurate information about your account to a credit reporting agency, you may contact the credit reporting agency or write to us at:

Key Credit Research Department  
P.O. Box 94518  
Cleveland, Ohio 44101-4518

Please include your account number, a copy of your credit report reflecting the inaccurate information, name, address, city, state, and zip code, and an explanation of why you believe the information is inaccurate.

## BALANCING YOUR ACCOUNT

Please examine your statement and canceled checks upon receipt. Erasures, alterations or irregularities should be reported promptly in accordance with your account agreement. The suggested steps below will help you balance your account.

## INSTRUCTIONS

- 1 Verify and check off in your check register** each deposit, check or other transaction shown on this statement.
- 2 Enter into your check register and SUBTRACT:**
  - Checks or other deductions shown on our statement that you have *not* already entered.
  - The "Service charges", if any, shown on your statement.
- 3 Enter into your check register and ADD:**
  - Deposits or other credits shown on your statement that you have *not* already entered.
  - The "Interest earned" shown on your statement, if any.

**4** List from your check register any checks or other deductions that are *not* shown on your statement.

[illegible]

**5** List any deposits from your check register that are *not* shown on your statement.

Date	Amount	
TOTAL	\$	

**6** Enter ending balance shown on your statement.

\$	
----	--

7 Add 5 and 6 and enter total here.

\$	
----	--

**8** Enter total from 4.

\$	
----	--

9 Subtract 8 from 7 and enter difference here.

\$	
----	--

This amount should agree with  
your check register balance.



1 T 0238 00000 R EM T1  
TETON VIEW GOLF ESTATES, LLC  
PO BOX 711946  
SALT LAKE CTY UT 84171-1946

*Questions or comments?*  
Call our Key Business Resource Center  
1-888-KEY4BIZ (1-888-539-4249)

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**Enroll in Online Banking today at Key.com.**  
**Access your available accounts, transfer funds and view your transactions right from your PC.**

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## KeyNotes

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*In place of actual cancelled checks or image replacements of your cancelled checks, you will receive digital images of the front and back of each check (multiple images per page), conveniently organized by check number for your reference. This change applies to all deposit accounts and supersedes any agreement or understanding you may have with KeyBank to return physical checks with your periodic statement. There will be no fee change for the new image statement.*

*If you should require a copy of a specific check image, please feel free to contact us. Check images are retained on our secure system for the period specified by law.*

*If you prefer not to have check images displayed on your statement, online image-viewing options are available. Please feel free to contact your KeyBank representative for more information, using the phone number provided on this statement.*

KeyNotes (con't)

Please read and retain this information with all of your KeyBank Account Opening Agreements and Disclosures.

Key Business Free Checking 442380000921  
TETON VIEW GOLF ESTATES, LLC

Beginning balance 5-31-08	\$1,236.40
2 Additions	+ 1,515.00
1 Subtraction	-2,750.00
<b>Ending balance 6-30-08</b>	<b>\$1.40</b>

Additions	Deposits	Date	Serial #	Source	
		6-3		Customer Deposit	\$1,500.00
		6-3		Customer Deposit	15.00
				<b>Total additions</b>	<b>\$1,515.00</b>

Subtractions

Paper Checks \* check missing from sequence

1021	6-4	\$2,750.00	Paper checks paid	\$2,750.00
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442380000921



T 0238 00000 R EM T1

TETON VIEW GOLF ESTATES, LLC  
PO BOX 711946  
SALT LAKE CTY UT 84171-1946

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1-888-KEY4BIZ (1-888-539-4249)

---

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---

### KeyNotes

#### *Important Information about Check Image Statements*

*If you are receiving statements displaying digital images of the front and back of each check, please note the following important information.*

*Statements will be limited to ten thousand digital check images. Accounts with more than ten thousand checks per statement period will not receive check images with the account statement.*

*If you should require a copy of a specific check image, all the digital check images or to discuss other delivery channels for check images please feel free to contact us at the phone number provided on this statement. Check images are retained on our secure system for the period specified by law.*

*Please read and retain this information with all of your KeyBank Account Opening Agreements and Disclosures.*

*Take advantage of Key's limited time DOUBLE offer. Between May 1 and September 5, 2008, if you apply and are approved for a KeyBank Platinum Credit Card with the rebate or the rewards option, then you can receive a DOUBLE rebate or DOUBLE rewards on all gas, grocery, pharmacy and dining purchases for the next 6 months! Offer available only for newly approved accounts opened in the branch or call center. For more details, or to apply, visit your local branch or call 1-888-KEY-1234.*

---

Key Business Free Checking 442380000921  
TETON VIEW GOLF ESTATES, LLC

Beginning balance 6-30-08	\$1.40
Ending balance 7-31-08	\$1.40

## CUSTOMER ACCOUNT DISCLOSURES

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ADV CR CARD	• Advance from Credit Card

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- The dollar amount of the suspected error;
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

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Key Credit Research Department  
P.O. Box 24518  
Cleveland, Ohio 44101-4518

Please include your account number, a copy of your credit report reflecting the inaccurate information, name, address, city, state, and zip code, and an explanation of why you believe the information is inaccurate.

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  - The "Service charges", if any, shown on your statement.
- ③ Enter into your check register and ADD:
  - Deposits or other credits shown on your statement that you have *not* already entered.
  - The "Interest earned" shown on your statement, if any.

[illegible]

























































**Business Banking Statement**  
**June 30, 2008**  
 page 2 of 3

**KeyNotes** (con't)

*Please read and retain this information with all of your KeyBank Account Opening Agreements and Disclosures.*

Key Business Free Checking 442380000921  
 TETON VIEW GOLF ESTATES, LLC

Beginning balance 5-31-08	\$1,236.40
2 Additions	+ 1,515.00
1 Subtraction	-2,750.00
<b>Ending balance 6-30-08</b>	<b>\$1.40</b>

<b>Additions</b>	<u>Deposits</u>	<u>Date</u>	<u>Serial #</u>	<u>Source</u>	
		6-3		Customer Deposit	\$1,500.00
		6-3		Customer Deposit	15.00
				<b>Total additions</b>	<b>\$1,515.00</b>

**Subtractions**

*Paper Checks* \* check missing from sequence

1021	6-4	\$2,750.00	<b>Paper checks paid</b>	<b>\$2,750.00</b>
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7TH JUDICIAL DISTRICT COURT  
BONNEVILLE COUNTY, IDAHO

10 MAY -5 P1:14

Jeffrey D. Brunson, ISB No. 6996  
Beard St. Clair Gaffney PA  
2105 Coronado Street  
Idaho Falls, ID 83404-7495  
Phone: (208) 523-5171  
Fax: (208) 529-9732

Attorneys for Defendant, Schiess & Associates, P.C.

**DISTRICT COURT SEVENTH JUDICIAL DISTRICT  
BONNEVILLE COUNTY IDAHO**

IDAHO DEVELOPMENT, LLC, a Utah limited liability  
company,

Plaintiff,

vs.

TETON VIEW GOLF ESTATES, LLC, a Utah limited  
liability company; ROTHCHILD PROPERTIES, LLC, a  
Utah limited liability company; WESTERN EQUITY,  
LLC, a Utah limited liability company; AMERITITLE  
COMPANY; ZBS, LLC, an Idaho limited liability  
company; DEPATCO, INC., an Idaho Corporation;  
SCHIESS & ASSOCIATES, P.C., an Idaho Professional  
Service Corporation; HD SUPPLY WATERWORKS,  
LTD.; DOES 1-3, and ALL PERSONS IN POSSESSION  
OF REAL PROPERTY DESCRIBED HEREIN.

Defendants.

SCHIESS & ASSOCIATES, P.C., an Idaho Professional  
Service Corporation,

Counterclaimant,

vs.

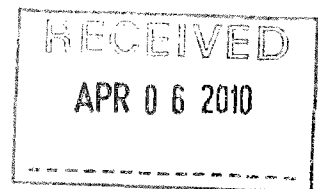
IDAHO DEVELOPMENT, LLC, a Utah limited liability  
company.

Counterdefendant.

SCHIESS & ASSOCIATES, P.C., an Idaho Professional  
Service Corporation,

Case No.: CV-08-4395

ORDER FOR DEFAULT IN FAVOR  
OF SCHIESS & ASSOCIATES, P.C.  
AND AGAINST TETON VIEW  
GOLF ESTATES, LLC



856

Crossclaimant,

vs.

TETON VIEW GOLF ESTATES, LLC, a Utah limited liability company; ROTHCHILD PROPERTIES, LLC, a Utah limited liability company; WESTERN EQUITY, LLC, a Utah limited liability company; AMERITITLE COMPANY; ZBS, LLC, an Idaho limited liability company; DEPATCO, INC., an Idaho Corporation; HD SUPPLY WATERWORKS, LTD.; DOES 1-3, and ALL PERSONS IN POSSESSION OF REAL PROPERTY DESCRIBED HEREIN.

Crossdefendants.

SCHIESS & ASSOCIATES, P.C., an Idaho Professional Service Corporation,

Third Party Plaintiff,

vs.


BRAD ZUNDEL, an individual; JIM ZUNDEL, an individual.

Third Party Defendants.

Upon Application for Order Entering Default and for Default Judgment and upon good cause showing:

IT IS ORDERED: Default shall be and is entered against Teton View Golf Estates, LLC and in favor of Schiess & Associates, P.C.

Attest my hand and seal of said Court on 4 day of April, 2010.

  
Jon J. Shindurling  
District Judge

### CLERK'S NOTICE OF ENTRY

I certify that on <sup>May</sup>~~April~~ 5, 2010, I served a true and correct copy of the ORDER  
FOR DEFAULT IN FAVOR OF SCHIESS & ASSOCIATES, P.C. AND AGAINST  
TETON VIEW GOLF ESTATES, LLC upon the following by the method of delivery

designated:

Alan Harrison  
Alan R. Harrison Law  
497 N Capital Avenue, Suite 210  
Idaho Falls, ID 83402  
Fax: 552-1176  
*Idaho Development*

☐ US Mail ☒ Hand delivered ☐ Facsimile

Karl Decker  
Holden Kidwell  
PO Box 50130  
Idaho Falls, ID 83405-0130  
Fax: 523-9518  
*ZBS, LLC*

☐ US Mail ☒ Hand delivered ☐ Facsimile

Mark Fuller  
Fuller & Carr  
PO Box 50935  
Idaho Falls, ID 83405-0935  
Fax: 524-7167  
*DePatco*

☐ US Mail ☒ Hand delivered ☐ Facsimile

Lynn C. Spafford  
Teton View Golf Estates, LLC  
PO Box 711946  
Salt Lake City, UT 84171

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Tony M. Versteeg  
Western Equity, LLC  
Rothchild Properties  
11105 S. Londonberry Drive  
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Jeffrey D. Brunson  
Beard St. Clair Gaffney PA  
2105 Coronado Street  
Idaho Falls, ID 83404  
Fax: 529-9732

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*Grace Whelan*  
Clerk of the Court

859

Karl R. Decker, ISB #3390  
Holden, Kidwell, Hahn & Crapo, P.L.L.C.  
1000 Riverwalk Drive, Suite 200  
P.O. Box 50130  
Idaho Falls, ID 83405  
Telephone 208-523-0620  
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Attorneys for ZBS, LLC

7TH JUDICIAL DISTRICT COURT  
BONNEVILLE COUNTY, IDAHO

10 MAY -5 PM:15

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

IDAHO DEVELOPMENT, LLC, a Utah  
limited liability company,

Plaintiff,

vs.

TETON VIEW GOLF ESTATES, LLC, a  
Utah limited liability company;  
ROTHCHILD PROPERTIES, LLC, a  
Utah limited liability company;  
WESTERN EQUITY, LLC, a Utah  
limited liability company;  
AMERITITLE COMPANY; ZBS, LLC, an  
Idaho limited liability company;  
DEPATCO, INC., an Idaho Corporation;  
SCHIESS & ASSOCIATES, P.C., an  
Idaho Professional Services  
Corporation; HD SUPPLY  
WATERWORKS, LTD; DOES 1-3 and  
ALL PERSONS IN POSSESSION OF  
REAL PROPERTY DESCRIBED  
HEREIN,

Defendants.

**Case No. CV-2008-4395**

ORDER OF DEFAULT ( TETON VIEW)



ZBS, LLC, an Idaho limited liability company,

Counterclaimant/cross-  
claimant/third-party  
plaintiff

vs.

IDAHO DEVELOPMENT, LLC, a Utah  
limited liability company

Counter-defendant,

TETON VIEW GOLF ESTATES, LLC, a  
Utah limited liability company;  
AMERITITLE COMPANY;  
DEPATCO, INC., an Idaho Corporation;  
SCHIESS & ASSOCIATES, P.C., an  
Idaho Professional Services  
Corporation;  
HD SUPPLY WATERWORKS, LTD;


Cross-defendants,

ALLIANCE TITLE & ESCROW CORP.,  
an Idaho corporation, as and only as  
trustee,  
IDAHO TITLE & TRUST, INC., as and  
only as trustee,  
DOES 1-20;

Third-party defendants.

IN THIS ACTION, the counterdefendants, **Teton View Golf Associates, LLC**, having been regularly served with process, and having been ordered to appoint counsel licensed to practice in the State of Idaho, and having failed to appoint such counsel, and the time allowed by law for appointment having expired, upon application of Holden, Kidwell, Hahn & Crapo, PLLC, attorneys for the crossclaimant, ZBS, LLC the default of the said crossdefendants is hereby ordered entered according to law.

DATED this 4 May day of April, 2010.

  
\_\_\_\_\_  
JON J. SHINDURLING  
DISTRICT JUDGE

## CLERK'S CERTIFICATE OF SERVICE

I hereby certify that I am the clerk of the above-entitled court, and that on the 5 day of May, 2010, I served a true and correct copy of the foregoing document on the persons listed below by mailing, with the correct postage thereon, or by causing the same to be hand delivered.

Persons Served:

Alan R. Harrison  
ALAN R. HARRISON LAW, PLLC  
497 N. Capital Avenue, Suite 210  
Idaho Falls ID 83402

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Jeffrey D. Brunson  
BEARD ST. CLAIR GAFFNEY, PA  
2105 Coronado Street  
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Mark Fuller  
FULLER & CARR  
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Tammie D. Whyte  
Idaho Title & Trust  
PO Box 50367  
Idaho Falls, ID 83405

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Richard W. Mollerup  
MEULEMAN MOLLERUP, LLP  
755 W. Front Street, Suite 200  
Boise, Idaho 83702

☒ Mail ☐ Hand ☐ Fax

Glenn Walten  
Clerk

G:\WPDATA\KRD\15389, ZBS LLC\03 Pleadings\Default Order, 2010-04-21.wpd

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

IDAHO DEVELOPMENT, LLC, )  
 )  
 Plaintiff, )  
 )  
 -vs.- )  
 )  
 TETON VEIW GOLF ESTATES, et al, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

Case No. CV-2008-4395

MINUTE ENTRY

10 MAY -6 AM 1:16

7TH JUDICIAL DISTRICT  
BONNEVILLE COUNTY, IDAHO

On May 4, 2010, at 1:00 PM several motions came on for hearing before the Honorable Jon J. Shindurling, District Judge, sitting in open court at Idaho Falls, Idaho.

Mr. Jack Fuller, Court Reporter, and Ms. Grace Walters, Deputy Court Clerk, were present.

Mr. Alan Harrison appeared on behalf of the plaintiff.

Mr. Jeff Bruson appeared on behalf of the defendant, Scheiss. Mr. Decker appeared on behalf of the defendants, ZBS and Zundels. Mr. Fuller appeared on behalf of the defendant, DePatco.

Mr. Fuller presented argument on the Motion for Judgment and requested the Court granted the Judgment and allow the foreclosure to allow payment on the bills.

Mr. Decker presented argument on the Motion for Default and Summary Judgment and requested the Court issue an order of foreclosure and find ZBS is entitled to funds over Idaho Development.

Mr. Brunson presented argument to the Court on the Schiess' Motion for Default Judgment and requested default judgment.


Mr. Harrison opposed the motions for settlement agreement and requested the Court delay ruling until the Motion for Reconsideration is heard.

Mr. Decker rebutted the opposition argument.

Mr. Fuller rebutted the opposition argument and objected to any delay in the ruling.

The Court granted the summary judgment motions and the default judgments. The Court requested a judgment resolving the case. The Court stated there are no material issues or finding of facts remaining in this case. There is no stay in this case. Mr. Decker will submit a final order for signature, resolving all issues in this case. A hearing on the motion to reconsider was set on July 12, 2010 at 9:00 AM.

Court was thus adjourned.

  
\_\_\_\_\_  
JON J. SHINDURLING  
District Judge

c: Alan Harrison  
Mark Fuller  
Karl Decker  
Jeff Brunson

BONNEVILLE COUNTY CLERK

2010 MAY -4 PM 1:25

Richard W. Mollerup, ISB #4754  
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(208) 342-6066 Telephone  
(208) 336-9712 Fax  
mollerup@lawidaho.com  
I:\264.157\PLD\Answer to 3rd Pty Complaint.doc

*Attorneys for Alliance Title & Escrow Corp.*

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

IDAHO DEVELOPMENT, LLC, a Utah  
limited liability company,

Plaintiff,

v.

TETON VIEW GOLF ESTATES, LLC, a  
Utah limited liability company;  
ROTHCHILD PROPERTIES, LLC, a Utah  
limited liability company; WESTERN  
EQUITY, LLC, a Utah limited liability  
company; AMERITITLE COMPANY; ZBS,  
LLC, an Idaho limited liability company;  
DEPATCO, INC., an Idaho corporation;  
SCHIESS & ASSOCIATES, P.C., an Idaho  
professional services corporation; HD  
SUPPLY WATERWORKS, LTD; DOES 1-3  
and ALL PERSONS IN POSSESSION OF  
REAL PROPERTY DESCRIBED HEREIN,

Defendants.

Case No. CV 2008-4395

**ALLIANCE TITLE & ESCROW  
CORP.'S ANSWER TO  
COUNTERCLAIM, CROSS-CLAIM AND  
THIRD PARTY COMPLAINT FILED BY  
ZBS, LLC**

ZBS, LLC, an Idaho limited liability company,

Counterclaimant/  
Cross-claimant/third-  
party plaintiff,

v.

IDAHO DEVELOPMENT, LLC, a Utah limited liability company,

Counter-defendant,

TETON VIEW GOLF ESTATES, LLC, a Utah limited liability company;  
AMERITITLE COMPANY; DEPATCO, INC., an Idaho corporation; SCHIESS & ASSOCIATES, P.C., an Idaho professional services corporation; HD SUPPLY WATERWORKS, LTD,

Cross-defendants,

ALLIANCE TITLE & ESCROW CORP., an Idaho corporation, as and only as trust,  
IDAHO TITLE & TRUST, INC., as and only as trustee, DOES 1-20;

Third-party defendants.

COMES NOW, Third-Party Defendant Alliance Title & Escrow Corp., a Delaware corporation ("Alliance Title"), by and through its attorneys of record, Meuleman Mollerup LLP, and admits, denies and answers the Counterclaim, Cross-Claim and Third Party Complaint filed by ZBS, LLC (the "Third Party Complaint") as follows:

1. Alliance Title lacks sufficient information to admit or deny the allegations contained in Paragraph 1 of the Third Party Complaint and, on that basis, denies same.

2. Alliance Title admits the allegations contained in Paragraph 2 of the Third Party Complaint.

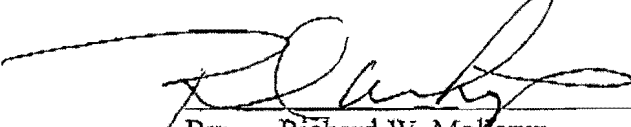
3. Alliance Title admits the allegations contained in Paragraph 3 of the Third Party Complaint, with the exception that Alliance Title is a Delaware corporation.

4. Alliance Title lacks sufficient information to admit or deny the balance of the allegations contained in the Third Party Complaint and, on that basis, denies same.

5. Alliance Title, by letter dated June 29, 2009, addressed to counsel for ZBS, LLC and filed with this Court, stated that because Alliance Title was named solely in its capacity as Trustee under the Idaho Development Deed of Trust, Alliance Title would file no responsive pleadings and would abide by the Order of the Court so long as no costs, fees or damages were sought against Alliance Title. Alliance Title files this answer solely to prevent from being defaulted from the above-entitled litigation. It is the understanding of Alliance Title that Idaho Development, LLC, the beneficiary under the Idaho Development Deed of Trust, is still involved in litigation and is asserting its lien. Alliance Title is unsure of the effect on the Idaho Development Deed of Trust if Alliance Title allows itself to be defaulted from the litigation. Alliance Title maintains its position that it is named in the above-entitled litigation solely in its capacity as Trustee under the Idaho Development Deed of Trust and, so long as no party seeks damages, costs or fees against Alliance Title, Alliance Title will file no further responsive pleadings and abide by any Order of the Court.

DATED this 4 day of May, 2010.

MEULEMAN MOLLERUP LLP

  
By: Richard W. Mollerup

*Attorneys for Alliance Title & Escrow Corp.*

866



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 4th day of May, 2010, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

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*Counsel for HD Supply Waterworks, Ltd.*

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Facsimile: 208/529-9732  
*Counsel for Schiess & Associates, P.C.*

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*Counsel for Western Equity, LLC*

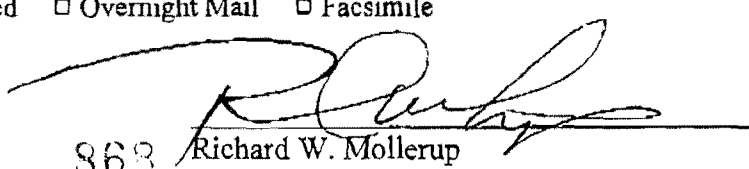
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Kipp Manwaring  
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Idaho Falls, ID 83405

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868  Richard W. Mollerup

Karl R. Decker, ISB #3390  
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Attorneys for ZBS, LLC

7TH JUDICIAL DISTRICT COURT  
BONNEVILLE COUNTY, IDAHO

10 MAY 11 P1:33

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

IDAHO DEVELOPMENT, LLC, a Utah  
limited liability company,

Plaintiff,

vs.

TETON VIEW GOLF ESTATES, LLC, a  
Utah limited liability company;  
ROTHCHILD PROPERTIES, LLC, a  
Utah limited liability company;  
WESTERN EQUITY, LLC, a Utah  
limited liability company;  
AMERITITLE COMPANY; ZBS, LLC, an  
Idaho limited liability company;  
DEPATCO, INC., an Idaho Corporation;  
SCHIESS & ASSOCIATES, P.C., an  
Idaho Professional Services  
Corporation; HD SUPPLY  
WATERWORKS, LTD; DOES 1-3 and  
ALL PERSONS IN POSSESSION OF  
REAL PROPERTY DESCRIBED  
HEREIN,

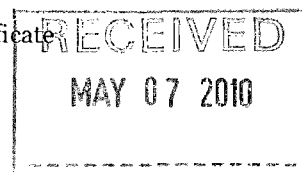
Defendants.

**Case No. CV-2008-4395**

JUDGMENT, DECREE OF FORECLOSURE,  
AND ORDER OF SALE

AND

RULE 54(b) CERTIFICATE



---

ZBS, LLC, an Idaho limited liability company,

Counterclaimant/cross-claimant/third-party plaintiff

vs.

IDAHO DEVELOPMENT, LLC, a Utah limited liability company

Counter-defendant,

TETON VIEW GOLF ESTATES, LLC, a Utah limited liability company;  
AMERITITLE COMPANY;  
DEPATCO, INC., an Idaho Corporation;  
SCHIESS & ASSOCIATES, P.C., an Idaho Professional Services Corporation;  
HD SUPPLY WATERWORKS, LTD;

Cross-defendants,

ALLIANCE TITLE & ESCROW CORP., an Idaho corporation, as and only as trustee,  
IDAHO TITLE & TRUST, INC., as and only as trustee,  
DOES 1-20;

Third-party defendants.

---

This matter came before the Court for hearing in open court on May 4, 2010 on the Motion for Summary Judgment of crossclaimant, ZBS, LLC ("ZBS") dated April 6, 2010, the Motion for Judgment and Order Approving Settlement Agreement to Perform Joint Foreclosure and for Certificate of Final Judgment of crossclaimant DePatco, Inc., ("DePatco") dated April 20, 2010, and applications for entry of default against defendant Teton View Golf Estates, LLC filed by ZBS and Schiess & Associates, PC ("Schiess").

---

In its Motion for Summary Judgment ZBS asserted that its deed of trust was the first and paramount lien on the Real Property and that it should be foreclosed and the Real Property sold to attempt to satisfy the debt. Subsequent to this motion ZBS, DePatco, and Schiess entered into an agreement to jointly foreclose their liens. Plaintiff Idaho Development, LLC is the only party that opposed entry of summary judgment in favor of ZBS. Plaintiff argued that ZBS had subordinated its claim to Plaintiff's Deed of Trust and should not be accorded priority.

Karl R. Decker of Holden, Kidwell, Hahn & Crapo, P.L.L.C., appeared on behalf of the ZBS. Jeffrey D. Brunson of Beard St. Clair Gaffney PA appeared on behalf of Schiess. Mark R. Fuller of Fuller & Carr appeared on behalf of DePatco. Alan R. Harrison of Alan R. Harrison Law, PLLC appeared on behalf of plaintiff Idaho Development Company, LLC.

Prior to the May 4, 2010 hearing the Court had granted Summary Judgment in favor of DePatco on December 22, 2009 in the amount of \$729,357.51 plus interest accruing thereon at the rate of 5.625% per annum.

Prior to the May 4, 2010 hearing the Court had issued an Opinion, Decision, and Order on Defendant DePatco's Motion for Partial Summary Judgment" which was entered April 2, 2010 ("April 2 Order") which determined that debt secured by Plaintiff's deeds of trust be recharacterized as a capital contribution in Teton View Golf Estates, LLC, and subordinated to the claims of Teton View's legitimate creditors.

At the May 4, 2010 hearing the Court granted ZBS's Motion for Summary Judgment, and the Court has also granted DePatco's motion for joint foreclosure by ZBS, DePatco and Schiess as these parties have stipulated.

The defendant Teton View Golf Estates, LLC has failed to appear and answer with respect to the claims of ZBS and Schiess, and also failed to appoint counsel admitted to practice in the State of Idaho and default has been entered against Teton View Golf Estates, LLC pursuant to Rule 55(a)(1) of the Idaho Rules of Civil Procedure.

Third-party defendants AmeriTitle, Inc., and Idaho Title & Trust, Inc. as trustee of deeds of trust at issue in this matter stipulated to entry of judgment.

The Court having determined that a Judgment and Decree of Foreclosure should be entered in this case at this time, and the Court being fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. That the Deed of Trust recorded February 29, 2008 as Instrument No. **1291905**, as amended by that Amendment of Deed of Trust dated March 7, 2008, recorded March 10, 2008 as Instrument No. **1292697**; and, the Deed of Trust recorded August 25, 2008 as Instrument No. **1309847**, Official Records of Bonneville County, Idaho which are held by plaintiff Idaho Development, LLC are avoided and ordered released of record pursuant to the April 2 Order.

2. The Deed of Trust in favor of the ZBS, executed March 10, 2008 and recorded March 10, 2008, as Instrument No. 1292699, Official Records of Bonneville County, Idaho, (the "ZBS Deed of Trust") is a valid first lien and security interest on the below-described property securing an indebtedness of principal in the amount of \$640,000.00, interest in the amount of \$69,302.44 as of June 17, 2009 and accruing interest in the amount \$157.81 per day for 324 days to May 7, 2010 in the amount of \$41,130.44 for total interest of \$120,432.88 as of May 7, 2010, for a total principal and interest of \$760,432.88, plus attorney's fees and costs incurred herein as shall be shown hereafter pursuant to the provisions of Idaho Rule of Civil Procedure 54. The above-referred sums constitute a total indebtedness due and owing to ZBS secured by the ZBS Deed of Trust.

3. The Claim of Lien of DePatco recorded October 20, 2008 as Instrument No. 1314766, Official Records of Bonneville County, Idaho (hereafter "Depatco Lien") which was reduced to judgment in the amount of \$729,357.51 plus accruing interest from December 22, 2009, at the rate of 5.625% per annum, is a valid first lien and

security interest on the below-described property securing an indebtedness of principal in the amount of \$729,357.51 on which interest in the amount of \$ 112.40 per day for 136 days for total interest \$15,286.40 has accrued as of May 7, 2010 for a total principal and interest due thereon of \$744,661.91, plus attorney's fees and costs incurred herein as shall be shown hereafter pursuant to the provisions of Idaho Rule of Civil Procedure 54. The above-referred sums constitute a total indebtedness due and owing to DePatco secured by the DePatco Lien.

4. The Claim of Lien of Schiess recorded October 29, 2008 as Instrument No. 1316496, Official Records of Bonneville County, Idaho (hereafter "Schiess Lien") is a valid first lien and security interest on the below-described property securing an indebtedness of principal in the amount of \$92,880.71 as of April 28, 2009 on which interest of \$17,204.97 had accrued through May 7, 2010 for a total due thereon of \$110,085.68, plus attorney's fees and costs incurred herein as shall be shown hereafter pursuant to the provisions of Idaho Rule of Civil Procedure 54. The above-referred sums constitute a total indebtedness due and owing to Schiess secured by the Schiess Lien.

5. Judgment of foreclosure is hereby entered against Teton View Golf Estates, LLC:

- (a) in favor of ZBS in the amount of \$760,432.88 with interest at the legal rate of 5.625% from May 7, 2010 until paid;
- (b) in favor of DePatco in the amount of \$729,357.51 with interest at the legal rate of 5.625% from December 22, 2009 until paid; and
- (c) in favor of Schiess in the amount of \$110,085.68 with interest at the legal rate of 5.625% from May 7, 2010 until paid;

for a combined total principal amount of \$1,599,876.07 with accrued interest of \$15,286.40 for a total of principal and interest due as of May 7, 2010 of \$1,615,162.47 upon which total amount execution may issue.

6. The property described in and subject to the ZBS Deed of Trust, DePatco Lien and Schiess Lien is situated in the County of Bonneville, State of Idaho, and is more particularly described as follows (the "Property"):

All of Blocks 1, 2, 3, 4, 5, and Lots 1-24 of Block 6 of Teton View Estates, Division No. 1 according to the Plat thereof recorded August 27, 2008 as Instrument No. 1310084, Official Records of Bonneville County, Idaho.

7. The ZBS Deed of Trust, the DePatco Lien, and the Schiess Lien are foreclosed, and all interest which the crossdefendant, Teton View Golf Estates, LLC, as the record title owner of the Property, and any all parties claiming by or through Teton View Golf Estates, LLC, in the Property shall be sold by the Sheriff of Bonneville County, Idaho, in one parcel in the manner provided by law, payable in cash, lawful money of the United States of America, in accordance with the practice of this Court. Provided, however, the ZBS, DePatco and Schiess shall be allowed to make a credit bid at such sale in an amount not exceeding the total indebtedness due and owing to ZBS, DePatco, and Schiess as set forth herein or as hereafter amended.

8. The Plaintiff, Idaho Development, LLC and crossdefendants/ counter-defendants/ third-party defendants, Alliance Title & Escrow Corp.; AmeriTitle, Inc; Idaho Title & Trust, Inc; and all persons claiming through or under them as purchasers, encumbrancers or otherwise, and all persons claiming to have any equity or interest in the Property after the recording of a Lis Pendens on June 19, 2009 as Instrument No. 1336195, Official Records of Bonneville County, Idaho, are foreclosed of any interest, liens or claims in the Property and every portion thereof, save and except the statutory rights of redemption as said parties or any of them may have.

9. The proceeds of the Sheriff's Sale shall be applied first to the cost of sale; second, toward the satisfaction of the indebtedness owing to ZBS, DePatco, and Schiess as set forth above; and third, any surplus thereafter remaining shall be paid into this

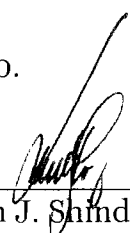


District Court for further determination regarding priority among those parties to this litigation whose rights are subordinate to the liens foreclosed herein.

10. That ZBS, DePatco, and Schiess collectively, or any party to this suit, may become the purchaser at the sale of the Property, and the purchaser thereof shall be entitled to all of the rights and privileges of such purchaser under the laws of the State of Idaho, including the right to possession thereof on the production of the Sheriff's Certificate of Sale.

11. The Sheriff of Bonneville County, Idaho, shall, after the time allowed by law for redemption has expired, execute a Deed to the purchaser or purchasers at such sale, and if any party of this action or any person who has since the commencement of this action come into possession under them, or either of them, shall refuse to deliver possession thereof to said purchasers on production of the Deed for such premises a writ of assistance, may, without further notice, be issued to compel such delivery to the purchaser or purchasers.


DATED this 11<sup>th</sup> day of May, 2010.

  
\_\_\_\_\_  
Jon J. Shindurling  
District Judge

### **RULE 54(b) CERTIFICATE**

With respect to the issues determined by the above Judgment and Order it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.Civ.P., that the Court has determined that there is no just reason for delay of the entry of a final Judgment and that the Court has and does hereby direct that the above Judgment or Order shall be a final Judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED this 11 day of May, 2010.

  
\_\_\_\_\_  
Jon J. Shindurling  
District Judge

G:\WPDATA\IKRD\115389, ZBS LLC\03 Pleadings\Judgment, Decree of Foreclosure, Order of Sale, 2010-05-07 wpd

CERTIFICATE OF SERVICE

I hereby certify that the foregoing is a true and correct copy of this Judgment, Decree of Foreclosure, Order of Sale and Rule 54(b) Certificate entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on

LYNN SPAFFORD

2858 E. WILLOW CREEK DR.

SANDY UT 84093

☒ Mailed ☐ Hand Delivered ☐ Courthouse Box ☐ Fax

TONY VERSTEEG

11105 LONDONDERRY DR.

SANDY UT 84092

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RICHARD W. MOLLERUP

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P.O. BOX 50935

IDAHO FALLS ID 83405

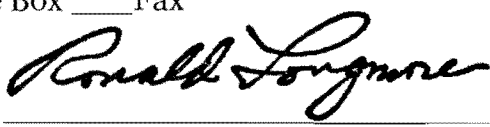
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KARL R. DECKER

P.O. BOX 50130

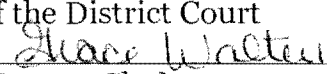
IDAHO FALLS ID 83405

\_\_\_ Mailed \_\_\_ Hand Delivered ☒ Courthouse Box \_\_\_ Fax

Dated: 

RONALD LONGMORE

Clerk of the District Court

By: 

Deputy Clerk

Jeffrey D. Brunson, ISB No. 6996  
Beard St. Clair Gaffney PA  
2105 Coronado Street  
Idaho Falls, ID 83404-7495  
Phone: (208) 523-5171  
Fax: (208) 529-9732

2010 MAY 14 PM 4:20  
CLERK OF DISTRICT COURT  
BONNEVILLE COUNTY  
IDAHO

Attorneys for Defendant, Schiess & Associates, P.C.

**DISTRICT COURT SEVENTH JUDICIAL DISTRICT  
BONNEVILLE COUNTY IDAHO**

IDAHO DEVELOPMENT, LLC, a Utah limited liability  
company,

Plaintiff,

vs.

TETON VIEW GOLF ESTATES, LLC, a Utah limited  
liability company; ROTHCHILD PROPERTIES, LLC, a  
Utah limited liability company; WESTERN EQUITY,  
LLC, a Utah limited liability company; AMERITITLE  
COMPANY; ZBS, LLC, an Idaho limited liability  
company; DEPATCO, INC., an Idaho Corporation;  
SCHIESS & ASSOCIATES, P.C., an Idaho Professional  
Service Corporation; HD SUPPLY WATERWORKS,  
LTD.; DOES 1-3, and ALL PERSONS IN POSSESSION  
OF REAL PROPERTY DESCRIBED HEREIN.

Defendants.

SCHIESS & ASSOCIATES, P.C., an Idaho Professional  
Service Corporation,

Counterclaimant,

vs.

IDAHO DEVELOPMENT, LLC, a Utah limited liability  
company.

Counterdefendant.

SCHIESS & ASSOCIATES, P.C., an Idaho Professional  
Service Corporation,

Case No.: CV-08-4395

STIPULATION FOR  
DISMISSAL OF THIRD PARTY  
DEFENDANTS, BRAD ZUNDEL  
AND JIM ZUNDEL

Crossclaimant,

vs.

TETON VIEW GOLF ESTATES, LLC, a Utah limited liability company; ROTHCHILD PROPERTIES, LLC, a Utah limited liability company; WESTERN EQUITY, LLC, a Utah limited liability company; AMERITITLE COMPANY; ZBS, LLC, an Idaho limited liability company; DEPATCO, INC., an Idaho Corporation; HD SUPPLY WATERWORKS, LTD.; DOES 1-3, and ALL PERSONS IN POSSESSION OF REAL PROPERTY DESCRIBED HEREIN.

Crossdefendants.

SCHIESS & ASSOCIATES, P.C., an Idaho Professional Service Corporation,

Third Party Plaintiff,

vs.

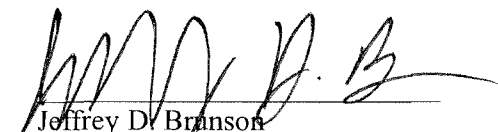
BRAD ZUNDEL, an individual; JIM ZUNDEL, an individual.

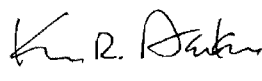
Third Party Defendants.

The parties, Schiess & Associates, P.C. and Brad Zundel and Jim Zundel, by and through their counsels of record, hereby stipulate and agree to dismiss all claims between them in the above entitled matter with prejudice as the parties have resolved all issues to the satisfaction of each party. The parties further agree that each shall be responsible for their own attorney fees and costs incurred.

DATED: May 14, 2010.

DATED: May 13, 2010.

  
Jeffrey D. Branson  
Beard St. Chair Gaffney PA  
Attorney for Schiess & Associates

  
Karl Decker  
Holden Kidwell  
Attorney for Brad and Jim Zundel

: Digitally signed by Karl R. Decker  
DN: cn=Karl R. Decker, o=Holden Kidwell, Hahn & Crapo,  
P.L.L.C., ou=email=kidecker@holdenlegal.com, c=US  
Date: 2010.05.13 09:24:03 -06'00'

### CERTIFICATE OF SERVICE

I certify I am a licensed attorney in the state of Idaho , and on May 14, 2010, I served a true and correct copy of the STIPULATION FOR DISMISSAL OF THIRD PARTY DEFENDANTS, BRAD ZUNDEL AND JIM ZUNDEL upon the following by the method of delivery designated:

Alan Harrison  
Alan R. Harrison Law  
497 N Capital Avenue, Suite 210  
Idaho Falls, ID 83402  
Fax: 552-1176  
*Idaho Development*

☐ US Mail ☐ Hand delivered ☒ Facsimile

Karl Decker  
Holden Kidwell  
PO Box 50130  
Idaho Falls, ID 83405-0130  
Fax: 523-9518  
*ZBS, LLC*

☐ US Mail ☐ Hand delivered ☒ Facsimile

Mark Fuller  
Fuller & Carr  
PO Box 50935  
Idaho Falls, ID 83405-0935  
Fax: 524-7167  
*DePatco*

☐ US Mail ☐ Hand delivered ☒ Facsimile

Lynn C. Spafford  
Teton View Golf Estates, LLC  
PO Box 711946  
Salt Lake City, UT 84171

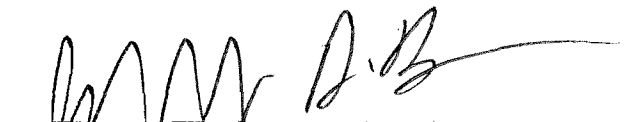
☒ US Mail ☐ Hand delivered ☐ Facsimile

Tony M. Versteeg  
Western Equity, LLC  
Rothchild Properties  
11105 S. Londonberry Drive  
Draper, UT 84092

☒ US Mail ☐ Hand delivered ☐ Facsimile

Bonneville County Courthouse  
605 N Capital Avenue  
Idaho Falls, ID 83402  
Fax: 529-1300

☒ US Mail ☐ Hand-delivered ☐ Facsimile

  
\_\_\_\_\_  
Jeffrey D. Brunson  
OF Beard St. Clair Gaffney PA  
Attorneys for Defendant, Schiess & Associates, P.C.



MARK R. FULLER (ISB No. 2698)  
DANIEL R. BECK (ISB No. 7237)  
FULLER & CARR  
410 MEMORIAL DRIVE, SUITE 201  
P.O. Box 50935  
IDAHO FALLS, ID 83405-0935  
TELEPHONE: (208) 524-5400

2010 MAY 18 PM 2:59

CLERK OF DISTRICT COURT  
IDAHO FALLS, IDAHO  
BONNEVILLE COUNTY

ATTORNEY FOR DePATCO, INC.

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL  
DISTRICT OF THE STATE OF IDAHO IN AND FOR  
THE COUNTY OF BONNEVILLE**

IDAHO DEVELOPMENT, LLC., a )	Case No. CV-08-4395
Utah limited liability )	
company, )	
)	
Plaintiff, )	MOTION FOR AWARD OF
)	ATTORNEY FEES
v. )	
)	
TETON VIEW GOLF ESTATES, LLC., )	
a Utah limited liability )	
company, ROTHCHILD PROPERTIES, )	
LLC., a Utah limited liability )	
company, WESTERN EQUITY, LLC., )	
A Utah limited liability )	
company, AMERITITLE COMPANY; )	
ZBS, LLC., an Idaho limited )	
liability company, DEPATCO, )	
INC., an Idaho corporation, )	
SCHIESS & ASSOCIATES, P.C., an )	
Idaho Professional Service )	
Corporation, HD SUPPLY )	
WATERWORKS, LTD., DOES 1-3, )	
and ALL PERSONS IN POSSESSION )	
OF REAL PROPERTY DESCRIBED )	
HEREIN )	
)	
Defendants. )	
)	

COMES NOW the Defendant, DePatco, Inc., by its counsel of record, Mark R. Fuller, pursuant to Idaho Code §45-513, §12-120

and IRCP 54(d)(5) and 54(e)(3) and seeks an award of attorney fees based upon the Judgment, Decree of Foreclosure, and Order of Sale and Rule 54(b) Certificate entered May 11, 2010. This action was pursued by Defendant based upon breach of contract, breach of implied contract, unjust enrichment and foreclosure of materialman's lien under I.C. §45-507, et seq.

**ATTORNEY FEES UNDER I.C. §45-513**

Idaho Code §45-513 provides for a mandatory award of attorney fees based upon foreclosure of materialman's liens:

The court shall also allow as part of the costs the monies paid for filing and recording the claim, and reasonable attorney's fees.

The evaluation of attorney fees under this provision was addressed in *Electrical Wholesale Supply Co. v. Nielson*, 136 Idaho 814, 824, 41 P.3d 242 (2001) as follows:

The operative phrase of I.C. § 45-513 is "reasonable attorney fees," and the trial court is free to consider all factors it deems as having a bearing on this case in its determination of what is reasonable. See *Barber*, 116 Idaho 771, 780 P.2d at 93. The District Court's determination of a reasonable amount of attorney fees is a factual determination to which this court applies an abuse of discretion standard of review. (citations omitted) An award of attorney fees is a matter best left to the sound discretion of the trial court, and the burden is upon the appellant to demonstrate that the trial court abused its discretion. *Hellar v. Cenarrusa*, 106 Idaho 571, 577, 682 P.2d 524, 530 (1984).

In reviewing an exercise of discretion, this Court must consider "(1) whether the trial correctly perceived the issue as one of discretion; (2) whether the trial court acted within the outer boundaries of its discretion and consistently with the legal standards applicable to the

specific choices available to; and (3) whether the trial court reached its decision by an exercise of discretion."

130 Idaho at 824. The Court went on in *Electrical Wholesale* to hold that the award of attorney fees was mandatory pursuant to Idaho Code §45-513: "EWSC was a prevailing lien claimant. Consequently, the award of attorney fees awarded was mandatory pursuant to I.C. §45-513. Whether the amount of attorney fees awarded by the District Court was reasonable is a factual determination which this Court reviews with an abuse of discretion standard. Although the award exceeds the amount of EWSC's judgment, this fact alone does not render the attorney fee award an abuse of discretion by the District Court." 136 Idaho at 824.

The issue of whether the attorney fees awarded must be proportionate to the size of the damage award was expressly addressed in *Meldco, Inc. v. Hollytex Carpet Mills*, 118 Idaho 265, 796 P.2d 142 (Ct. App. 1990):

With respect to Hollytex's second argument, we note that although Rule 54(e)(3)(G) requires the trial court to consider the amount involved in the case and the results obtained, the court is not required to give that factor more weight or emphasis than should be given to other applicable factors. *Nalen v. Jenkins*, 113 Idaho at 81, 741 P.2d at 368. Moreover, Rule 54(e)(3) nowhere indicates the amount of an attorney fees award must be proportionate to the size of the damages award. We believe that the work record submitted by counsel from Meldco adequately supports the district court's determination of Meldco's attorney fee award. We conclude that no abuse of discretion has been shown.

118 Idaho at 271. This Court of Appeals holding was subsequently

supported by the Idaho Supreme Court in *Lunders v. Snyder*, 131 Idaho 689, 963 P.2d 372(1998):

The Snyders next argue that because the Lunders only recovered 23% of what their complaint sought, the award of attorney fees should be reduced accordingly. The factors to be used in determining the amount attorney fees as set forth in IRCP 54(e)(3). Although one of the twelve factors listed is "[t]he amount involved and the results obtained," IRCP 54(e)(3)(G), this factor is given no more weight than any of the others. We agree with the Court of Appeals that the amount of attorney fees need not be proportional to the amount of the damages awarded. *Meldco, Inc., v. Holleytex Carpet Mills, Inc.*, 118 Idaho 265, 796 P.2d 142 (Ct. App. 1990).

131 Idaho at 699-700. It should be noted that in *Lunders*, the jury returned a special verdict in favor of the Lunders for \$5,760. The Court awarded attorney fees of \$21,779.85, slightly less than four times the amount of recovery obtained by Lunders. In the present action, the Defendant, DePatco has recovered \$729,357.51. See Order Granting Summary Judgment entered December 23, 2009. The attorney fee claim sought by Defendant, DePatco, is \$64,386.25. Consideration must also be given to DePatco defeating Idaho Development's Deed of Trust claim by re-characterization.

The mandatory nature of the attorney fee award was also addressed in *Olsen v. Rowe*, 125 Idaho 686, 873 P.2d 1340 (Ct. App. 1994):

Idaho Code §45-513, on the other hand, states, "the court **shall** also allow as part of the costs the monies paid for filing and recording the claim [of lien], and reasonable attorney's fees." (Emphasis added.) This provision has been interpreted to mean that the costs of

filing and recording, as well as the attorney fees, are incidental to the foreclosure of the lien. Therefore the lien is also enforceable as to the costs and fees. (Citations omitted) ...To the extent that Rule 54(e) is inconsistent with I.C. §45-513, we hold that the rule has no application and does not modify the statute.

This same analysis applies to the cost of foreclosure of a lien under I.C. §45-513. It would be inconsistent to require an award of attorney fees for the foreclosure of a lien but not require an award of costs. Therefore, when a party successfully forecloses on a lien filed pursuant to I.C. §45-507, that party is entitled to an award of the costs associated with the foreclosure pursuant to I.C. §45-513.

Thus, we conclude that upon a successful entry of a judgment of foreclosure of a lien claimed under I.C. §45-507, an award of attorney fees and costs is mandatory. The amount of the award, however, is still a matter of discretion for the district court. (Citation omitted). In determining the amount, the district court is free to consider the factors of IRCP 54(e)(3) as well as those considerations which are part of the prevailing party analysis under IRCP 54(d)(1)(B).

125 Idaho at 688-689.

Submitted herewith is the Affidavit of Mark R. Fuller regarding DePatco's attorney time and costs. Such Affidavit addresses each of the factors set forth in IRCP 54(d)(1)(B) and IRCP 54(e)(3). DePatco incorporates such Affidavit herein as if set forth at length.

As a final matter, it should be noted that the Idaho Supreme Court held in *Acoustic Specialties, Inc. v. Wright*, 103 Idaho 595, 651 P.2d 529 (1982), that both the general contractor and the landowner are responsible for the attorney fees incurred in legal proceedings to collect on a claim of lien. The Court there

referenced Idaho Code §45-513 to support a holding that the attorney's fee is merged with and becomes part of the principle debt for which the foreclosure of the lien is sought. 103 Idaho at 595.

**ATTORNEY FEES UNDER I.C. §12-120**

In addition to recovery of the fees under Idaho Code §45-513, DePatco is entitled to an award of attorney fees under Idaho Code §12-120(1) and (3). It cannot be disputed that DePatco's Materialman's Lien claim was in the amount of \$818,436.02 and that DePatco made written demand for payment of the claim on Teton View Golf Estates, LLC., on November 3, 2008, not less than ten (10) days prior to DePatco's entry into this action. Defendant's demand letter was attached as Exhibit "B" to Defendant's Answer and Counterclaim. DePatco filed its Answer and Counterclaim on or about April 15, 2009, more than ten (10) days after the demand letter was sent to Teton View.

As prevailing party, DePatco, is further entitled to an award of attorney fees pursuant to Idaho Code §12-120(3) as this was a commercial transaction and was related to a contract for the purchase or sale of goods and services by DePatco to Teton View. Again, DePatco incorporates all statements reviewing the factors to be considered in the award of attorney fees, as set forth in the Affidavit of Mark R. Fuller submitted herewith.

CONCLUSION

Based upon the above stated law, and the attached Affidavit, DePatco requests an award of attorney fees and costs totaling \$66,135.35, and requests that such attorney fees and costs be included in the principle amount of the materialman's lien claim, for purposes of lien foreclosure.

DATED THIS 18<sup>th</sup> day of May, 2010.

FULLER & CARR



---

Mark R. Fuller  
Attorney for DePatco, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I served a true and correct copy of the following described pleading or document on the attorney listed below on this 16<sup>th</sup> day of May, 2010:

Document Served: MOTION FOR AWARD OF ATTORNEY FEES

Attorneys Served:

Alan R. Harrison, Esq.  
ALAN HARRISON LAW, PLLC  
497 N. Capital Ave., Ste. 210  
Idaho Falls, ID 83402

✓ U.S. Mail  
       Facsimile  
       Hand Delivery

Jeffrey Brunson, Esq.  
BEARD ST. CLAIR  
2105 Coronado  
Idaho Falls, ID 83404

✓ U.S. Mail  
       Facsimile  
       Hand Delivery

Karl Decker, Esq.  
HOLDEN KIDWELL HAHN & CRAPO  
P.O. Box 50130  
Idaho Falls, ID 83405

✓ U.S. Mail  
       Facsimile  
       Hand Delivery

Rick Hajek (Amerititle)  
1650 Elk Creek  
Idaho Falls, ID 83404

✓ U.S. Mail  
       Facsimile  
       Hand Delivery



Mark R. Fuller  
FULLER & CARR



MARK R. FULLER (ISB No. 2698)  
410 Memorial Drive, Suite 201  
P.O. Box 50935  
Idaho Falls, ID 83404  
Tel. (208) 524-5400  
Fax (208) 524-7167

Attorney for DePatco, Inc.

2010 MAY 16 PM 2:59  
MARK R. FULLER  
IDaho Falls DIVISION  
BONNEVILLE COUNTY

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL  
DISTRICT OF THE STATE OF IDAHO IN AND FOR  
THE COUNTY OF BONNEVILLE**

IDAHO DEVELOPMENT, LLC., a Utah	)	Case No. CV-08-4395
Limited liability company,	)	
	)	
Plaintiff,	)	
	)	MEMORANDUM OF COSTS;
	)	AFFIDAVIT OF ATTORNEY RE:
v.	)	ATTORNEY TIME AND COSTS
	)	
TETON VIEW GOLF ESTATES, LLC.,	)	
A Utah limited liability company,	)	
ROTHCHILD PROPERTIES, LLC.,	)	
a Utah limited liability company,	)	
AMERITITLE COMPANY; ZBS, LLC.,	)	
An Idaho limited liability company,	)	
DEPATCO, INC., an Idaho corporation,	)	
SCHEISS & ASSOCIATES, PC., an Idaho	)	
Professional service corporation, HD	)	
SUPPLY WATERWORKS, LTD, DOES	)	
1-3 and ALL PERSONS IN POSSESSION	)	
OF REAL PROPERTY DESCRIBED	)	
HEREIN,	)	
	)	
Defendants.	)	

Mark R. Fuller, being first duly sworn, deposes and says:

1. That your Affiant, a resident of the City of Idaho Falls, County of Bonneville, State of Idaho, is an attorney at law and was retained on or about October 15, 2008, to represent DePatco, Inc., in the above-entitled contested case.

2. That your Affiant has reviewed his time and billing records maintained on the above matter and upon such review represents that the following services have been provided and costs expended in connection with this matter:

Date	Hours	Timekeeper	Amount
10/15/08	.25	Mark Fuller @ \$200.00 per hour	\$50.00
10/16/08	.25	Mark Fuller @ \$200.00 per hour	\$50.00
10/20/08	.50	Mark Fuller @ \$200.00 per hour	\$100.00
10/22/08	.25	Mark Fuller @ \$200.00 per hour	\$50.00
11/18/08	1.00	Mark Fuller @ \$200.00 per hour	\$200.00
11/20/08	.25	Mark Fuller @ \$200.00 per hour	\$50.00
12/1/08	.25	Mark Fuller @ \$200.00 per hour	\$50.00
12/2/08	.25	Mark Fuller @ \$200.00 per hour	\$50.00
12/3/08	.125	Mark Fuller @ \$200.00 per hour	\$25.00
12/4/08	.25	Mark Fuller @ \$200.00 per hour	\$50.00
12/9/08	.125	Mark Fuller @ \$200.00 per hour	\$25.00
12/30/08	.125	Mark Fuller @ \$200.00 per hour	\$25.00
1/6/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
1/7/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
1/16/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00

1/22/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
1/27/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
1/28/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
2/9/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
2/19/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
2/24/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
2/25/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
2/26/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
3/18/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
3/20/09	2.00	Mark Fuller @ \$200.00 per hour	\$400.00
3/30/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
3/31/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
4/9/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
4/10/09	1.00	Mark Fuller @ \$200.00 per hour	\$200.00
4/10/09	3.00	Daniel Beck @ \$150.00 per hour	\$450.00
4/13/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
4/13/09	2.75	Daniel Beck @ \$150.00 per hour	\$412.50
4/14/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/14/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/14/09	2.25	Daniel Beck @ \$150.00 per hour	\$337.50
4/15/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/15/09	.25	Daniel Beck @ \$150.00 per hour	\$37.50

4/16/10	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/16/09	3.25	Daniel Beck @ \$150.00 per hour	\$487.50
4/17/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
4/17/09	3.00	Daniel Beck @ \$150.00 per hour	\$450.00
4/20/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/20/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/20/09	1.00	Daniel Beck @ \$150.00 per hour	\$150.00
4/21/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/22/09	1.25	Mark Fuller @ \$200.00 per hour	\$250.00
4/22/09	2.25	Daniel Beck @ \$150.00 per hour	\$337.50
4/23/09	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
4/23/09	3.25	Daniel Beck @ \$150.00 per hour	\$487.50
4/24/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/24/09	.25	Daniel Beck @ \$150.00 per hour	\$37.50
4/27/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
4/27/09	.25	Daniel Beck @ \$150.00 per hour	\$37.50
4/28/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/29/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/30/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
4/30/09	1.25	Daniel Beck @ \$150.00 per hour	\$187.50
5/1/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
5/1/09	1.25	Daniel Beck @ \$150.00 per hour	\$187.50

5/4/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
5/5/09	1.25	Mark Fuller @ \$200.00 per hour	\$250.00
5/5/09	1.50	Daniel Beck @ \$150.00 per hour	\$225.00
5/11/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
5/14/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
5/18/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
5/19/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
5/21/09	1.25	Mark Fuller @ \$200.00 per hour	\$250.00
5/21/09	1.00	Daniel Beck @ \$150.00 per hour	\$150.00
5/21/09	2.50	Paul Fuller @ \$35.00 per hour	\$87.50
5/22/09	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
5/22/09	.75	Daniel Beck @ \$150.00 per hour	\$112.50
5/22/09	3.25	Paul Fuller @ \$35.00 per hour	\$113.75
5/26/09	3.50	Mark Fuller @ \$200.00 per hour	\$700.00
5/26/09	.75	Daniel Beck @ \$150.00 per hour	\$112.50
5/26/09	4.50	Paul Fuller @ \$35.00 per hour	\$157.50
5/27/09	1.00	Mark Fuller @ \$200.00 per hour	\$200.00
5/27/09	.50	Daniel Beck @ \$150.00 per hour	\$75.00
5/27/09	2.00	Paul Fuller @ \$35.00 per hour	\$70.00
5/28/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
5/28/09	1.00	Paul Fuller @ \$35.00 per hour	\$35.00
5/29/09	.50	Daniel Beck @ \$150.00 per hour	\$75.00

5/29/09	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
6/1/09	1.00	Paul Fuller @ \$35.00 per hour	\$35.00
6/1/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
6/2/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
6/3/09	1.00	Daniel Beck @ \$150.00 per hour	\$150.00
6/3/09	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
6/4/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
6/5/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
6/16/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
6/17/09	2.75	Paul Fuller @ \$35.00 per hour	\$96.25
6/17/09	1.25	Mark Fuller @ \$200.00 per hour	\$250.00
6/18/09	2.25	Paul Fuller @ \$35.00 per hour	\$78.75
6/18/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
6/19/09	3.00	Paul Fuller @ \$35.00 per hour	\$105.00
6/19/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
6/22/09	3.50	Paul Fuller @ \$35.00 per hour	\$122.50
6/23/09	1.75	Paul Fuller @ \$35.00 per hour	\$61.25
6/24/09	.25	Daniel Beck @ \$150.00 per hour	\$37.50
6/24/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
6/29/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
7/1/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
7/2/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00

7/7/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
7/9/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
7/13/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
7/14/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
7/20/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
7/21/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
7/21/09	.75	Daniel Beck @ \$150.00 per hour	\$112.50
7/23/09	.25	Daniel Beck @ \$150.00 per hour	\$37.50
7/27/09	3.00	Paul Fuller @ \$35.00 per hour	\$105.00
7/28/09	1.00	Mark Fuller @ \$200.00 per hour	\$200.00
7/30/09	.75	Daniel Beck @ \$150.00 per hour	\$112.50
8/3/09	1.25	Paul Fuller @ \$75.00 per hour	\$93.75
8/3/09	3.50	Paul Fuller @ \$75.00 per hour	\$262.50
8/3/09	4.25	Daniel Beck @ \$150.00 per hour	\$637.50
8/4/09	.75	Paul Fuller @ \$75.00 per hour	\$56.25
8/4/09	2.50	Paul Fuller @ \$75.00 per hour	\$187.50
8/4/09	1.25	Mark Fuller @ \$200.00 per hour	\$250.00
8/4/09	5.25	Daniel Beck @ \$150.00 per hour	\$787.50
8/5/09	.50	Paul Fuller @ \$75.00 per hour	\$37.50
8/5/09	.75	Paul Fuller @ \$75.00 per hour	\$56.25
8/5/09	2.00	Mark Fuller @ \$200.00 per hour	\$400.00
8/5/09	3.75	Daniel Beck @ \$150.00 per hour	\$562.50

8/6/09	2.00	Mark Fuller @ \$200.00 per hour	\$400.00
8/6/09	3.75	Daniel Beck @ \$150.00 per hour	\$562.50
8/7/09	.75	Paul Fuller @ \$75.00 per hour	\$56.25
8/7/09	.50	Paul Fuller @ \$75.00 per hour	\$37.50
8/7/09	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
8/10/09	9.75	Mark Fuller @ \$200.00 per hour	\$1,950.00
8/10/09	3.00	Daniel Beck @ \$150.00 per hour	\$450.00
8/11/09	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
8/11/09	1.25	Daniel Beck @ \$150.00 per hour	\$187.50
8/17/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
8/19/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
8/27/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
9/2/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
9/3/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
9/8/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
9/14/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
9/29/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
10/5/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
10/6/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
10/8/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
10/9/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
10/13/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00



10/15/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
10/16/09	1.25	Mark Fuller @ \$200.00 per hour	\$250.00
10/16/09	.75	Paul Fuller @ \$75.00 per hour	\$56.25
10/19/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
10/20/09	1.00	Mark Fuller @ \$200.00 per hour	\$200.00
10/21/09	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
10/22/09	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
10/22/09	.50	Daniel Beck @ \$150.00 per hour	\$75.00
10/23/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
10/26/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
10/27/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
10/29/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
10/30/09	2.00	Daniel Beck @ \$150.00 per hour	\$300.00
11/03/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
11/4/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
11/5/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
11/9/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
11/10/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
11/18/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
11/19/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
11/20/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
12/8/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00

12/10/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
12/14/09	.125	Mark Fuller @ \$200.00 per hour	\$25.00
12/15/09	.50	Mark Fuller @ \$200.00 per hour	\$100.00
12/17/09	1.00	Paul Fuller @ \$75.00 per hour	\$75.00
12/18/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
12/22/09	.125	Mark Fuller @ \$200.00 per hour	\$25.00
12/23/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
12/24/09	.75	Mark Fuller @ \$200.00 per hour	\$150.00
12/24/09	.50	Daniel Beck @ \$150.00 per hour	\$75.00
12/28/09	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
12/29/09	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
12/31/09	.25	Mark Fuller @ \$200.00 per hour	\$50.00
1/4/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
1/4/10	1.00	Mark Fuller @ \$200.00 per hour	\$200.00
1/4/10	1.00	Paul Fuller @ \$75.00 per hour	\$75.00
1/5/10	.50	Mark Fuller @ \$200.00 per hour	\$100.00
1/8/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
1/11/10	.125	Mark Fuller @ \$200.00 per hour	\$25.00
1/12/10	.50	Mark Fuller @ \$200.00 per hour	\$100.00
1/12/10	.25	Daniel Beck @ \$150.00 per hour	\$37.50
1/13/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
1/19/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00

1/20/10	.50	Mark Fuller @ \$200.00 per hour	\$100.00
1/21/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
1/22/10	1.25	Mark Fuller @ \$200.00 per hour	\$250.00
1/25/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
1/26/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
1/26/10	4.50	Daniel Beck @ \$150.00 per hour	\$675.00
1/27/10	2.50	Mark Fuller @ \$200.00 per hour	\$500.00
1/27/10	4.75	Daniel Beck @ \$150.00 per hour	\$712.50
1/28/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
1/28/10	5.25	Daniel Beck @ \$150.00 per hour	\$787.50
1/29/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
1/29/10	1.75	Daniel Beck @ \$150.00 per hour	\$262.50
2/1/10	1.25	Daniel Beck @ \$150.00 per hour	\$187.50
2/3/10	.125	Mark Fuller @ \$200.00 per hour	\$25.00
2/4/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
2/5/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
2/8/10	3.75	Mark Fuller @ \$200.00 per hour	\$750.00
2/8/10	2.00	Daniel Beck @ \$150.00 per hour	\$300.00
2/9/10	2.50	Mark Fuller @ \$200.00 per hour	\$500.00
2/10/10	3.75	Mark Fuller @ \$200.00 per hour	\$750.00
2/11/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
2/11/10	2.25	Daniel Beck @ \$150.00 per hour	\$337.50

2/12/10	.50	Mark Fuller @ \$200.00 per hour	\$100.00
2/12/10	2.25	Daniel Beck @ \$150.00 per hour	\$337.50
2/16/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
2/16/10	5.00	Daniel Beck @ \$150.00 per hour	\$750.00
2/17/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
2/17/10	3.00	Daniel Beck @ \$150.00 per hour	\$450.00
2/22/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
2/23/10	2.50	Mark Fuller @ \$200.00 per hour	\$500.00
2/24/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
2/25/10	.50	Mark Fuller @ \$200.00 per hour	\$100.00
2/25/10	1.75	Daniel Beck @ \$150.00 per hour	\$262.50
2/26/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
3/1/10	2.25	Mark Fuller @ \$200.00 per hour	\$450.00
3/1/10	3.25	Daniel Beck @ \$150.00 per hour	\$487.50
3/2/10	1.75	Mark Fuller @ \$200.00 per hour	\$350.00
3/2/10	3.50	Daniel Beck @ \$150.00 per hour	\$525.00
3/3/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
3/3/10	3.25	Daniel Beck @ \$150.00 per hour	\$487.50
3/4/10	1.75	Mark Fuller @ \$200.00 per hour	\$350.00
3/4/10	2.50	Daniel Beck @ \$150.00 per hour	\$375.00
3/5/10	7.00	Mark Fuller @ \$200.00 per hour	\$1,400.00
3/5/10	3.25	Daniel Beck @ \$150.00 per hour	\$487.50

3/8/10	1.75	Mark Fuller @ \$200.00 per hour	\$350.00
3/8/10	1.25	Daniel Beck @ \$150.00 per hour	\$187.50
3/9/10	.50	Mark Fuller @ \$200.00 per hour	\$100.00
3/10/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
3/11/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
3/12/10	.75	Daniel Beck @ \$150.00 per hour	\$112.50
3/15/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
3/16/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
3/17/10	1.00	Mark Fuller @ \$200.00 per hour	\$200.00
3/18/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
3/18/10	1.25	Daniel Beck @ \$150.00 per hour	\$187.50
3/19/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
3/19/10	.50	Daniel Beck @ \$150.00 per hour	\$75.00
3/22/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
3/22/10	4.75	Daniel Beck @ \$150.00 per hour	\$712.50
3/23/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
3/23/10	3.25	Daniel Beck @ \$150.00 per hour	\$487.50
3/24/10	.50	Mark Fuller @ \$200.00 per hour	\$100.00
3/25/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
3/26/10	1.75	Mark Fuller @ \$200.00 per hour	\$350.00
3/29/10	1.75	Daniel Beck @ \$150.00 per hour	\$262.50
4/2/10	1.25	Mark Fuller @ \$200.00 per hour	\$250.00

4/2/10	1.25	Daniel Beck @ \$150.00 per hour	\$187.50
4/5/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
4/5/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
4/5/10	1.75	Daniel Beck @ \$150.00 per hour	\$262.50
4/6/10	6.25	Daniel Beck @ \$150.00 per hour	\$937.50
4/6/10	4.50	Mark Fuller @ \$200.00 per hour	\$900.00
4/7/10	4.75	Daniel Beck @ \$150.00 per hour	\$712.50
4/7/10	2.50	Mark Fuller @ \$200.00 per hour	\$500.00
4/8/10	3.75	Daniel Beck @ \$150.00 per hour	\$562.50
4/9/10	3.75	Daniel Beck @ \$150.00 per hour	\$562.50
4/12/10	2.50	Mark Fuller @ \$200.00 per hour	\$500.00
4/12/10	5.25	Daniel Beck @ \$150.00 per hour	\$787.50
4/13/10	2.50	Daniel Beck @ \$150.00 per hour	\$375.00
4/13/10	2.50	Mark Fuller @ \$200.00 per hour	\$500.00
4/14/10	3.25	Daniel Beck @ \$150.00 per hour	\$487.50
4/14/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
4/15/10	5.75	Daniel Beck @ \$150.00 per hour	\$862.50
4/15/10	3.50	Mark Fuller @ \$200.00 per hour	\$700.00
4/16/10	3.75	Daniel Beck @ \$150.00 per hour	\$562.50
4/16/10	.50	Mark Fuller @ \$200.00 per hour	\$100.00
4/19/10	1.75	Daniel Beck @ \$150.00 per hour	\$262.50
4/19/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00

4/20/10	2.25	Mark Fuller @ \$200.00 per hour	\$450.00
4/22/10	1.50	Mark Fuller @ \$200.00 per hour	\$300.00
4/26/10	.25	Daniel Beck @ \$150.00 per hour	\$37.50
4/27/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
4/28/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
4/28/10	.25	Daniel Beck @ \$150.00 per hour	\$37.50
4/30/10	.25	Mark Fuller @ \$200.00 per hour	\$50.00
5/3/10	.75	Mark Fuller @ \$200.00 per hour	\$150.00
5/4/10	4.50	Mark Fuller @ \$200.00 per hour	\$900.00
5/4/10	2.25	Daniel Beck @ \$150.00 per hour	\$337.50
5/5/10	1.00	Mark Fuller @ \$200.00 per hour	\$200.00
5/17/10	1.00	Mark Fuller @ \$200.00 per hour	\$200.00
		TOTAL	\$64,386.25

Mark Fuller: 187.125 hours at \$200.00 per hour equals \$37,425.00

Daniel Beck: 166 hours at \$150.00 per hour equals \$24,900.00

Paul Fuller: 30.5 hours at \$35.00 per hour equals \$1,067.50

Paul Fuller: 13.25 hours at \$75.00 per hour equals \$993.75

#### COSTS:

10/27/08	Recording Fee – Mechanic’s Lien	\$9.00
2/9/09	Court Clerk – Filing Fee	\$58.00

4/15/09	Recording Fee -- Lis Pendens	\$9.00
4/15/09	Court Clerk -- Filing Fee	\$14.00
4/16/09	Matt Tolman -- Service Fee	\$30.00
8/17/09	Baker & Harris -- Mediation Fee	\$350.00
3/24/10	Copies for Depositions	\$45.40
3/25/10	Deposition Fees -- Boswell and Clark	\$1,187.50
4/6/10	Service Fee -- Kurtis Roland Subpoena	\$25.00
4/24/10	Copies	\$21.20
	TOTAL	\$1,749.10

Total costs and attorney fees equal \$66,135.35

4. I am familiar with the basis and method of computation of attorneys' fees claimed, set fees being generated on an hourly basis at the rate of \$200.00 per hour for Mark R. Fuller, at the rate of \$150.00 per hour for Daniel Beck, at the rate of \$35.00 per hour from October, 2008 through July, 2009 for Paul Fuller and at the rate of \$75.00 per hour for Paul Fuller from August, 2009 to the present. All bills are prepared at these hourly rates. A copy of excerpts of Affiant's billing statements which support this claim for attorney fees are attached as Exhibit "A".

5. Affiant verifies that to the best of Affiant's knowledge and belief, the above items of costs and attorney fees are correct and are submitted in compliance with IRCP 54(d)(5) and Idaho Code §12-120 and §45-513 and were necessarily expended and incurred in pursuing the contested case.



6. On October 20, 2008, DePatco, Inc., recorded a Materialman's Lien in the total amount of \$818,436.02 as Bonneville County Instrument No. 1314766. A copy of that Lien is attached as Exhibit "A" to the Answer and Cross Claims filed by DePatco, Inc. The outstanding principle balance set forth in the Materialman's Lien was \$784,949.00. Interest has accrued on said principle balance at the rate of eighteen percent (18%) per annum from July 25, 2008.

6. On January 12, 2009, Plaintiff filed an Amended Complaint with the above entitled Court. DePatco filed its Answer and Cross Claims on or about April 15, 2009.

7. On December 22, 2009 this Court entered Summary Judgment in favor of DePatco, Inc., in the amount of \$729,357.51, plus interest accruing thereon at the rate of 5.625% per annum.

8. On April 2, 2010 this Court entered its Opinion, Decision and Order regarding DePatco's Motion for Partial Summary Judgment which held that the alleged debt secured by Plaintiff's Deeds of Trust be re-characterized as a capital contribution to Teton View Golf Estates, LLC., and be subordinated to the claims of Teton View's legitimate creditors, including DePatco.

9. At the May 4, 2010 hearing the Court granted DePatco's motion for joint foreclosure by ZBS, DePatco and Schiess pursuant to the Settlement Agreement entered into by ZBS, DePatco and Schiess, dated April 20, 2010.

10. Pursuant to IRCP 54(d)(1), Defendant, DePatco, Inc., is clearly the prevailing party having recovered 100% of the lien amount sought by DePatco and being granted Summary Judgment. In addition, DePatco has prevailed against Idaho Development, Inc.

9. Affiant makes the following statements with regard to the factors set forth in IRCP 54(e)(3) in support of DePatco's Motion for Attorney Fees:

(A) The Time and Labor Required: As set forth above Affiant verifies that Defendant's counsel have devoted a total of 396.875 hours of labor to litigate this matter.

(B) The Novelty and Difficulty of the Questions: The equitable subordination and re-characterization issues addressed in DePatco's Motion for Summary Judgment required extensive research and briefing and addressed difficult and novel issues seldom considered by Idaho courts. Such motion was strenuously opposed by Idaho Development and addressed a second time in a Motion for Reconsideration.

(C) The Skill Requisite to Perform the Legal Services Properly and the Experience and Ability of the Attorney in the Particular Field of Law: Affiant verifies that Affiant has practiced in the area of construction litigation for a period of 28 years and has filed hundreds of materialman's liens, and has the requisite skill to defeat Idaho Development's priority secured creditor claim.

Affiant's associate has practiced for approximately five years. The skill level of Affiant and Affiant's associate were required to perform the type of legal services addressed in defeating motions by Idaho Development and to assist in legal research.

(D) The Prevailing Charges for Like Work: Affiant bills DePatco and other similarly situated corporate clients at the rate of \$200.00 per hour

for all attorney services. Affiant's associate, Daniel Beck bills at the rate of \$150.00 per hour for attorney services. Affiant's paralegal, Paul Fuller, a recent law school graduate, bills presently at the rate of \$75.00 per hour for services.

(E) Whether the Fee is Fixed or Contingent: Affiant verifies that the attorney fee is fixed at \$200.00 per hour for Affiant at the present time and \$150.00 for Affiant's associate, Daniel Beck and \$75.00 per hour for Affiant's paralegal, Paul Fuller. No portion of the work involved in this case was based upon a contingent fee agreement.

(F) The Time Limitations Imposed by the Client or the Circumstances of the Case: This factor is not significant in addressing attorney fees as no special limitations were imposed by client or the circumstances of the case.

(G) The Amount Involved and the Results Obtained: Affiant verifies that the amount involved was significant. Defendant sought to enforce a lien of \$818,436.02, and ~~was successful in recovering the full amount of such claim.~~ <sup>mkf</sup> Affiant was successful in enforcement of the lien and has been granted foreclosure rights equal to all other secured parties.

(H) The Undesirability of the Case: This is not a significant factor for consideration in the award of attorney fees.

(I) The Nature and Length of the Professional Relationship with the Client: Affiant verifies that Affiant has represented DePatco, Inc., for approximately 9 years. Affiant has served as corporate counsel for DePatco,

Inc., including litigation of multiple claims and lien foreclosures and all collection actions required of corporate counsel.

(J) Award in Similar Cases: Because the attorney fees are fixed at an hourly rate, and such rates are prevailing charges for like work, awards in similar cases, based on an hourly rate, will be substantially similar to the attorney fees sought herein.

(K) The Cost of Automated Legal Research: The cost of automated legal research is not sought as part of this claim for attorney fees and costs.

8. Based upon a review of the above factors regarding prevailing party status under IRCP 54(e)(3), and the factors evaluated under IRCP 54(d)(1)(B), it is Affiant's belief that the Court should award DePatco's attorney fees and costs in the total amount of \$66,135.35.

9. Further this Affiant sayeth not.

DATED this 16<sup>th</sup> day of May, 2010.



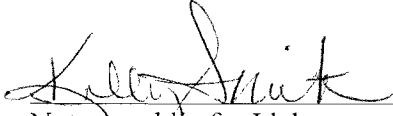
Mark R. Fuller  
Attorney for DePatco, Inc.

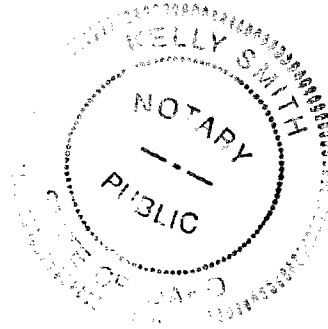
STATE OF IDAHO                     )  
  )ss.  
County of Bonneville            )

On this 16<sup>th</sup> day of May, 2010, before me, the undersigned notary public, in and for the State of Idaho, personally appeared, Mark R. Fuller, having first been duly sworn under oath, deposes and states that he has read the Memorandum of Costs; Affidavit of Attorney

Re: Attorney Time and Costs and Prejudgment Interest set forth above, and verifies that the facts as stated therein are true to the best of his knowledge and belief.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

  
\_\_\_\_\_  
Notary public for Idaho  
Residing at Rigby  
My commission expires: 06-28-2011



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I served a true and correct copy of the following described pleading or document on the attorney listed below on this 18<sup>th</sup> day of May, 2010:

Document Served:

MEMORANDUM OF COSTS;  
AFFIDAVIT OF ATTORNEY RE:  
ATTORNEY TIME AND COSTS

Attorneys/Persons Served:

Alan R. Harrison, Esq.  
ALAN HARRISON LAW, PLLC  
497 N. Capital Ave., Ste. 210  
Idaho Falls, ID 83402

☒ U.S. Mail  
☐ Facsimile  
☐ Hand Delivery

Jeffrey Brunson, Esq.  
BEARD ST. CLAIR  
2105 Coronado  
Idaho Falls, ID 83404


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☐ Facsimile  
☐ Hand Delivery

Karl Decker, Esq.  
HOLDEN KIDWELL HAHN & CRAPO  
P.O. Box 50130  
Idaho Falls, ID 83405

☒ U.S. Mail  
☐ Facsimile  
☐ Hand Delivery

Rick Hajek (Amerititle)  
1650 Elk Creek  
Idaho Falls, ID 83404

☒ U.S. Mail  
☐ Facsimile  
☐ Hand Delivery



Mark R. Fuller  
FULLER & CARR

LAW OFFICES OF  
FULLER & CARR  
P.O. BOX 50935  
IDAHO FALLS, ID 83405-0935

DEPATCO, INC.  
P.O. BOX 246  
ST. ANTHONY, ID 83445

May 13, 2010  
17-1

CASE NO.: CV-08-4395

	Services:	Hours/Rate
10/15/08 MRF	Fee: .25 hours @ \$200.00/hour Office conference with Greg on Teton view.	50.00
10/16/08 MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Greg regarding Teton View Golf Estates; revise lien for new interest rate; prepare demand letter to Versteeg.	50.00
10/20/08 MRF	Fee: 0.50 hours @ \$200.00/hour Phone conference with Greg regarding Teton View Golf Estates collection; revise and record Teton View Estates lien.	100.00
10/22/08 MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Greg regarding Teton View Golf Estates.	50.00
10/27/08 MRF	Expense Recorder (Teton view)	9.00
11/18/08 MRF	Fee: 1.00 hours @ \$200.00/hour Travel to St. Anthony for meeting with Paul, Greg, Troy and Daniel to discuss pending litigation and collection actions regarding Teton View Golf Estates lien foreclosure.	200.00
11/20/08 MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Greg; review pay estimate #3 on Teton View regarding payoff calculations.	50.00
12/01/08 MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Deverl Stoddard regarding Teton View resolution and payment.	50.00
12/02/08 MRF	Fee: 0.25 hours @ \$200.00/hour Phone call to Kevin Christensen regarding status of HD Supply Waterworks claims against Teton View Golf Estate Property.	50.00
12/03/08 MRF	Fee: 0.125 hours @ \$200.00/hour Phone conference with Greg regarding	25.00

Teton View.

12/04/08	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Phone conference with Kevin Christensen regarding HD Supply Waterworks resolution; Phone conference with Greg Stoddard.	50.00
12/09/08	MRF	Fee: 0.125 hours @ \$200.00/hour Phone conference with Greg Stoddard regarding Teton View lien.	25.00
12/30/08	MRF	Fee: 0.125 hours @ \$200.00/hour Phone conference with Greg and Daniel regarding Teton View status.	25.00
01/06/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Alan Harrison regarding Idaho Development; Phone conference with Greg Stoddard regarding Teton View case.	100.00
01/07/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Phone conference with Greg regarding meeting with Tony Versterg; Phone call to Greg.	50.00
01/16/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Review documents from Alan Harrison; sign and fax acknowledgment of service with copies of all to client.	50.00
01/22/09	MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Greg regarding Scheiss/Teton View litigation. Phone conference with David Scheiss.	50.00
01/27/09	MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Craig Simpson regarding Teton View Golf Estates/Versteeg project; two Phone calls to Greg Stoddard.	50.00
01/28/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View Golf Estates) Phone conference with Greg Stoddard regarding bridge loan acquired by Burton and Versteeg and need to subordinate lien claim; Phone conference with Jana Bishoff regarding Hancock; Two phone calls Greg Stoddard.	100.00
02/09/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Idaho Development) Prepare and revise Notice of Appearance and phone conference with Alan Harrison regarding status of bridge loans.	100.00
02/19/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Idaho Development) Office conference with Alan Harrison regarding Idaho Development hesitation to subordinate to \$1.3 Million Bank loan and conditions needed for subordination.	50.00
02/24/09	MRF	Fee: 0.50 hours @ \$200.00/hour	100.00



Three phone conferences with Greg; prepare and fax partial lien release on Teton View project to get \$10k

02/25/09	MRF	Fee: 0.25 hours @ \$200.00/hour Three phone conferences with Greg regarding Teton View, Idaho Development.	50.00
02/26/09	MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Greg; phone call to Alan Harrison regarding Idaho Development regarding subordination agreement.	50.00
02/09/09	MRF	Expense Clerk (Idaho Development)	58.00
03/18/09	MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Alan Harrison regarding Teton View; Phone conference with Greg Stoddard regarding Teton View.	50.00
03/20/09	MRF	Fee: 2.00 hours @ \$200.00/hour Office conference with Greg regarding pending case in Idaho Development dispute; Phone conference with Alan Harrison regarding Melinda Boswell deed of trust status; plan general litigation strategy.	400.00
03/30/09	MRF	Fee: 0.50 hours @ \$200.00/hour Two phone conferences with Greg regarding Status of Idaho Development case; Phone conference with Alan Harrison regarding investor options for Versteeg and Spafford on Idaho Development;	100.00
03/31/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Phone conference with Greg regarding Teton View and Zundell issues.	50.00
04/09/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Idaho Development) Phone conference with Greg; revise and e-mail Bill of Sale for gravel on site.	50.00
04/10/09	MRF	Fee: 1.00 hours @ \$200.00/hour (Idaho Development) Three office conferences with Dan regarding preparation of answer and counterclaim to foreclose materialman's lien at Teton View Golf Estates; Phone conference with Jeff Brunson and Greg Calder regarding David Schiess lien enforcement.	200.00
04/10/09	DRB	Fee: 3.00 hours @ \$150.00/hour (Idaho Development) Meeting with Mark; reviewing file; reviewing Amended Complaint from Idaho Development and Answers from various defendants; checking status of Idaho Development on Secretary of State website; researching case law regarding LLCs, owners and capital contributions and equitable subordination	450.00
04/13/09	MRF	Fee: 0.75 hours @ \$200.00/hour Office conference with Dan regarding	150.00

research on Idaho Development/Teton View case and defense strategy; further phone conference with Greg Stoddard regarding Teton View Golf Estates.

04/13/09	DRB	Fee: 2.75 hours @ \$150.00/hour (Idaho Development) Drafting Answer and Counterclaims	412.50
04/14/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Greg regarding settlement options with Boswell and answer and lien foreclosure crossclaim; Office conference with Dan regarding progress on pleading and litigation strategy in equitable subordination claims.	100.00
04/14/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Idaho Development) Office conference with Dan; review answer and cross claim to foreclose materialman's lien and fax to Greg for review.	100.00
04/14/09	DRB	Fee: 2.25 hours @ \$150.00/hour (Idaho Development) Drafting Answer and Crossclaims; meeting with Mark; researching case law and statutes for possible claims	337.50
04/15/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Two phone conferences with Greg regarding credits and offsets to reduce lien claim; revise answer and cross-claim to foreclose lien.	100.00
04/15/09	MRF	Expense Recorder (Teton View)	9.00
04/15/09	MRF	Expense Clerk (Teton View)	14.00
04/15/09	DRB	Fee: 0.25 hours @ \$150.00/hour (Idaho Development) Revising Answer and Crossclaims	37.50
04/16/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Greg; Office conference with Dan regarding discovery, documentation to Karl Decker regarding ZBS, Inc, and General trial strategy to Defeat Idaho Development security status.	100.00
04/16/09	DRB	Fee: 3.25 hours @ \$150.00/hour (Idaho Development) Reviewing repository; drafting discovery requests including interrogatories; requests for admission; and requests for production directed at Idaho Development; meeting with Mark; phone call to Karl Decker	487.50
04/17/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Idaho Development) Two phone conferences with Alan Harrison regarding construction manager charge Order; Phone conference with	150.00

Greg regarding negotiations with Idaho Development to finish project upon payment of outstanding lien debt.

04/17/09	DRB	Fee: 3.00 hours @ \$150.00/hour (Idaho Development) Drafting discovery requests to Idaho Development; Drafting discovery requests to Teton View; Drafting Discovery Requests to ZBS Inc.	450.00
04/20/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Review and revise discovery requests to Idaho Development, Teton View and ZBS, LLC; Phone conference with Greg.	100.00
04/20/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Research on form contract for construction management of project; Phone conference with Alan Harrison; Phone conference with Greg regarding construction Management contract.	100.00
04/20/09	DRB	Fee: 1.00 hours @ \$150.00/hour (Idaho Development) Revising discovery requests to multiple parties; meeting with Mark	150.00
04/21/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Scott Hookland for HD Waterworks regarding Susan McArthur trust subordination issues; Phone conference with Greg Stoddard regarding multiple issues.	100.00
04/22/09	MRF	Fee: 1.25 hours @ \$200.00/hour (Idaho Development) Office conference with Dan; review file and research on Motion to Set Aside Default obtained by Idaho Development; Phone conference with Greg Stoddard, Jeff Brunson and Doug Hookland's associate regarding MacArthur Trust Deed of Trust Foreclosure on commercial Zoned Property in subdivision; work with Dan on Motion to set aside default in support of Spofford and Versteeg.	250.00
04/22/09	DRB	Fee: 2.25 hours @ \$150.00/hour Phone conversation with Jeff Brunson regarding Idaho Development case; meeting with Mark; reviewing Defendant's Motion to Vacate Default Judgment; researching case law; meeting with Mark; phone call to Alan Harrison; drafting Motion to Join in Motion to Vacate Default Judgment	337.50
04/23/09	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Office conference with Dan regarding motion to withdraw default judgment by Versteeg and Spofford and Harrison motion to amend Judgment and further litigation strategy; Phone conference with Lynn Spafford; Phone conference with Greg Stoddard; review responsive pleadings and motions for	300.00

Spafford; revise brief in Opposition to Motion to Amend Judgment and in Support of Motion to set aside Default Judgment.

04/23/09	DRB	Fee: 3.25 hours @ \$150.00/hour (Idaho Development) Drafting Motion to Join in Motion to Vacate; meeting with Mark; reviewing letter from Karl Decker; drafting letter to all counsel regarding exhibits to discovery; researching case law regarding default judgment	487.50
04/24/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Alan Harrison regarding construction manager contract; Phone conference with Greg Stoddard; Phone conference with Doug Hookland regarding HD waterworks and pending motions.	100.00
04/24/09	DRB	Fee: 0.25 hours @ \$150.00/hour (Idaho Development) Revising motion to vacate	37.50
04/27/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Idaho Development) Review supporting briefs of Scheiss and Associates and of HD Waterworks regarding motion to vacate default judgment by Teton View; Phone conference with Alan Harrison regarding setting aside default; Phone conference with Greg Stoddard.	150.00
04/27/09	DRB	Fee: 0.25 hours @ \$150.00/hour (Idaho Development) Reviewing documents filed by other parties; meeting with Mark	37.50
04/28/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Lynn Spafford regarding stipulation to judgment and status conference; stipulation to set aside default; Phone call to to Greg Stoddard; Phone conference with Greg.	100.00
04/29/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Review answer and cross-claims, etc from Scheiss and Associates; Phone conference with Alan Harrison regarding status conference on Monday; forward documents to client; Phone call to Jeff Brunson regarding Answer and Cross-claims.	100.00
04/30/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Greg regarding stipulation to judgment with Spafford and Versteeg; begin dictation of Stipulation to judgment.	150.00
04/30/09	DRB	Fee: 1.25 hours @ \$150.00/hour (Idaho Development) Reviewing answer, cross claim and third party claim filed by Schiess; meeting with Mark; researching statutes and case law regarding lien priorities	187.50

05/01/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Phone conference with Greg; Office conference with Dan; review letter and stipulation from Hookland; research on lien priority procedures.	50.00
05/01/09	DRB	Fee: 1.25 hours @ \$150.00/hour (Idaho Development) Researching case law regarding lien priorities; reviewing answer and cross claims filed by Schiess	187.50
05/04/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Prepare for and attend hearing on Motion to set aside default and status conference; Phone call to Greg; Office conference with Decker, Harrison, and Bunson.	150.00
05/05/09	MRF	Fee: 1.25 hours @ \$200.00/hour (Teton View) Phone conference with Greg regarding status conference, litigation strategy and discovery needed to defeat Scheiss lien claim priority; Phone conference with Doug Hookland's office regarding service of counterclaims / Cross claims, etc; revise discovery requests to Scheiss; Office conference with Dan on litigation strategy.	250.00
05/05/09	DRB	Fee: 1.50 hours @ \$150.00/hour (Idaho Development) Meeting with Mark; reviewing documents filed by Schiess; drafting discovery requests to Schiess	225.00
05/11/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Reorganize discovery file; review answer and crossclaim from HD waterworks and review personal guarantee; Phone conference with Greg and Daniel Stoddard regarding status of case.	150.00
05/14/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Review personal guarantee documents on HD waterworks; review JBL Commercial Loan documents from Versteeg; Phone conference with Greg Stoddard on pending cases and trial strategy; Phone conference with Dick Trethaway regarding Susan MacArthur trust lien enforcement and HD	150.00
05/18/09	MRF	Fee: 0.75 hours @ \$200.00/hour Review discovery response and documents from Trethaway regarding Teton View; Phone conference with Greg regarding HD waterworks lien claim to Commercial Property; Phone call to Doug Hookland regarding Mac Authur Trust Sale.	150.00
05/19/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Lynn Spafford regarding extension of time on answer to counterclaim and joinder in Motion for Summary Judgment on Idaho Development;	150.00

Phone conference with Doug Hookland on HD waterworks claim to Commercial Property and foreclosure of Mac Authur Trust Deed of Trust.

05/21/09	MRF	Fee: 1.25 hours @ \$200.00/hour Phone conference with Greg regarding Teton View; review discovery responses from Idaho Development and forward to client; Phone call to Dick Trethaway on MacArthur Trust foreclosure; work with Paul on briefing regarding equitable subordination.	250.00
05/21/09	DRB	Fee: 1.00 hours @ \$150.00/hour (Idaho Development) Meeting with Mark and Paul; researching case law regarding equitable subordination	150.00
05/21/09	PAUL	Fee: 2.50 hours @ \$35.00/hour Researching equitable subordination	87.50
05/22/09	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Exchange emails with Douglas Hookland regarding HD waterworks delivery of materials; two phone conferences with Greg and office conference with Dan regarding effect of erroneous delivery invoice on validity of HD's lien on commercial property; review HD's lien and invoices; phone conference with Alan Harrison regarding extension of time to file discovery responses.	300.00
05/22/09	DRB	Fee: 0.75 hours @ \$150.00/hour (Idaho Development) Researching case law regarding subordination for motion for summary judgment	112.50
05/22/09	PAUL	Fee: 3.25 hours @ \$35.00/hour Drafting Motion for Summary Judgment on Equitable Subordination	113.75
05/26/09	MRF	Fee: 3.50 hours @ \$200.00/hour (Teton View) Review Answer to Amended Complaint from Spafford; dictate Stipulation to Judgment and Order regarding DePatco lien validity; review ZBS discovery responses from Carl Decker; work with Dan and Paul on Motion for Summary Judgment on priority of Idaho Development lien; dictate Answer to Scheiss cross claim.	700.00
05/26/09	DRB	Fee: 0.75 hours @ \$150.00/hour (Idaho Development) Reviewing discovery responses received from Teton View and Idaho Development; researching case law; meeting with Mark and Paul concerning case strategy	112.50
05/26/09	PAUL	Fee: 4.50 hours @ \$35.00/hour Drafting Motion for Summary Judgment on Equitable Subordination	157.50
05/27/09	MRF	Fee: 1.00 hours @ \$200.00/hour	200.00

Three phone conferences with Greg regarding Teton View, revise answer to Scheiss cross claim, Teton View Stipulation and Order and fax to Greg for review and approval.

05/27/09	DRB	Fee: 0.50 hours @ \$150.00/hour (Teton View) Reviewing and revising stipulation and answer to Scheiss cross claim.	75.00
05/27/09	PAUL	Fee: 2.00 hours @ \$35.00/hour Drafting Motion for Summary Judgment on Equitable Subordination	70.00
05/28/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Revise brief in support of Motion for Summary Judgment on lien priority; Phone conference with Greg.	100.00
05/28/09	PAUL	Fee: 1.00 hours @ \$35.00/hour Drafting Motion for Summary Judgment on equitable subordination.	35.00
05/29/09	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton view) Office conference with Dan and Paul on Motion for Summary Judgment on Idaho Development priority status and new case law located by Paul; Phone conference with Greg Stoddard; revisions to Teton View stipulation and fax and e-mail to Lynn Spafford for signature.	300.00
05/29/09	DRB	Fee: 0.50 hours @ \$150.00/hour (Idaho Development) Meeting with Mark and Paul; revising brief regarding equitable subordination.	75.00
06/01/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Lynn Spafford regarding execution of Stipulation to Judgment; Two phone calls Greg regarding removal of valves and return to HD waterworks; Two phone conferences with Greg regarding valve removal.	100.00
06/01/09	PAUL	Fee: 1.00 hours @ \$35.00/hour Drafting Motion for Summary Judgment on Equitable Subordination	35.00
06/02/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Revise brief supporting summary Judgment on equitable subrogation; Two phone conferences with Greg regarding conversation with Lynn Spafford.	150.00
06/03/09	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) revise Motion for Partial Summary Judgment and fax to Spafford; revise answer to Scheiss crossclaim; research on Utah LLC statutes; Phone conference with Lynn Spafford; Phone conference with Greg Stoddard; Office conference with Dan and Paul on further briefing and litigation strategy; file answer to Scheiss crossclaim.	300.00

06/03/09	DRB	Fee: 1.00 hours @ \$150.00/hour (Idaho Development) Participating in phone conversation with Spafford; meeting with Mark; drafting email; researching Utah LLC laws regarding owner creditors	150.00
06/04/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Greg; review line item calculation sent to Spafford; revise Stipulation to Judgment and e-mail to Spafford.	100.00
06/05/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Lynn Spafford; Phone conference with Greg Stoddard; revise Stipulation to Sum Certain Debt and refax to Spafford; review discovery responses from Scheiss.	150.00
06/16/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Lynn Spafford regarding stipulation to Sum certain debt; e-mail revised stipulation to Spafford; e-mail to Greg and Daniel to push on stipulation; Phone conference with Greg; e-mail to Spafford on stipulation and Motion for Summary Judgment.	150.00
06/17/09	MRF	Fee: 1.25 hours @ \$200.00/hour (Teton View) Review emails from Spafford and respond; Two phone conferences with Greg Stoddard to discuss options and begin preparations of Motion for Summary Judgment against Teton View Golf Estates; review files and work with Paul on briefing.	250.00
06/17/09	PAUL	Fee: 2.75 hours @ \$35.00/hour Drafting Motion for Summary Judgment on Breach of Contract	96.25
06/18/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Greg regarding Spafford modifications to stipulation and loan negotiations and status of Motion for Summary Judgment; revise brief on Summary Judgment	150.00
06/18/09	PAUL	Fee: 2.25 hours @ \$35.00/hour Drafting Motion for Summary Judgment on Breach of Contract; Organizing Documents	78.75
06/19/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Greg; Two phone conferences with court clerk to schedule Motion for Summary Judgment on Teton View and on Idaho Development; Office conference with Dan on Motion Strategy and Scheduling; review Idaho Development answer to third party complaints and additional claims against Teton View.	150.00
06/19/09	PAUL	Fee: 3.00 hours @ \$35.00/hour	105.00



Organizing documents.

06/22/09	PAUL	Fee: 3.50 hours @ \$35.00/hour (Teton View) Organizing Documents	122.50
06/23/09	PAUL	Fee: 1.75 hours @ \$35.00/hour (Teton View) Organizing Documents	61.25
06/24/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Review mediation email from Decker; Phone conference with Greg; Office conference with Dan regarding mediation options, Strategy and position paper drafting; e-mail to Decker on Scheduling.	100.00
06/24/09	DRB	Fee: 0.25 hours @ \$150.00/hour (Idaho Development) Meeting with Mark concerning strategy and mediation	37.50
06/29/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Karl Decker; Phone conference with Judge's clerk to reschedule Motion for Summary Judgment; revise notice of hearing; email to Decker and client regarding Motion for Summary Judgment and mediation; phone conference with Greg regarding mediation preparation.	150.00
07/01/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Review mediation documents from Karl Decker and fax to Greg for review; Phone conference with Kip Manwaring's office regarding Motion for Summary Judgment. Review documents from Decker regarding ZBS / Idaho Title Stipulation and Order.	100.00
07/02/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Review documents on Alliance title appearance; review Dwight Baker mediation letter on mediation rules and forward to client.	50.00
07/07/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) review Scheiss and Associates answer to ZBS Counterclaim.	50.00
07/09/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Lynn Spafford on Stipulation and Motion for Summary Judgment; Phone conference with Greg.	100.00
07/13/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Review proposed amended stipulation and brief from Spafford in support of Motion to Strike Idaho Development Third Party claims.	50.00
07/14/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Review proposed Stipulation from Lyn Spafford; Phone call to Greg; Phone conference with Greg.	100.00
07/20/09	MRF	Fee: 0.75 hours @ \$200.00/hour	150.00

(Teton View) review Motion to Continue hearing on Motion for Summary Judgment and Motion to Amend responses to Request for Admissions; research and dictate responses to both motions; revise Motion and fax to Stoddard for review.

07/21/09	MRF	Fee: 0.50 hours @ \$200.00/hour Phone conference with Greg Stoddard regarding Teton View; review brief objecting to Motion to Continue; Office conference with Dan regarding affidavit from Greg to oppose Motion to Amend Request for Admission responses.	100.00
07/21/09	DRB	Fee: 0.75 hours @ \$150.00/hour (Idaho Development) Reviewing objection to Motion to Continue and Motion to Amend Response to Requests for Admissions	112.50
07/23/09	DRB	Fee: 0.25 hours @ \$150.00/hour (Teton View) Reviewing opposition to motion to continue motion for summary judgment and Teton View's Motion to Set aside admissions	37.50
07/27/09	PAUL	Fee: 3.00 hours @ \$35.00/hour (Teton View) Motion for Summary Judgment - Stoddard	105.00
07/28/09	MRF	Fee: 1.00 hours @ \$200.00/hour (Teton View) Work with Paul on revisions to Motion for Partial Summary Judgment to get Daniel Stoddard personal guarantee cancelled; review Delaware, Florida, Georgia, and Idaho corporate records on various HD Supply entities to support motion.	200.00
07/30/09	DRB	Fee: 0.75 hours @ \$150.00/hour Reviewing discovery responses filed by Idaho Development	112.50
08/03/09	DRB	Fee: 4.25 hours @ \$150.00/hour (Teton View) Drafting mediation position statement	637.50
08/03/09	PAUL	Fee: 1.25 hours @ \$75.00/hour Stamping/Scanning Documents; Motion for Summary Judgment - Daniel Stoddard	93.75
08/03/09	PAUL	Fee: 3.50 hours @ \$75.00/hour Motion for Summary Judgment drafting	262.50
08/04/09	MRF	Fee: 1.25 hours @ \$200.00/hour (Teton View) three office conferences with Dan; review Stoddard affidavit support Motion for Summary Judgment; review response briefing affidavits, notice of nonparticipation from Lyn Spafford; Office conference with Paul on Motion for Summary Judgment against Scheiss and associates regarding validity of lien and invalid service on property owner.	250.00

08/04/09	DRB	Fee: 5.25 hours @ \$150.00/hour (Teton View) Drafting mediation position statement; drafting reply to Teton View's opposition to motion for summary judgment; drafting affidavit for Greg Stoddard; meeting with Mark regarding case	787.50
08/04/09	PAUL	Fee: 0.75 hours @ \$75.00/hour Motion for Summary Judgment	56.25
08/04/09	PAUL	Fee: 2.50 hours @ \$75.00/hour Motion for Summary Judgment - Scheiss Lien	187.50
08/05/09	MRF	Fee: 2.00 hours @ \$200.00/hour (Teton View) Phone conference with Greg Stoddard regarding removal of excess pipe materials and revisions to affidavit; revise brief on Partial Summary Judgment to get Daniel Stoddard out of case; Office conference with Greg; revise reply brief, affidavit and mediation position paper.	400.00
08/05/09	DRB	Fee: 3.75 hours @ \$150.00/hour (Teton View) Revising mediation position statement; revising reply to Teton View's opposition to motion for summary judgment; phone conversation with Greg Stoddard; meeting with Mark; revising affidavit of Greg Stoddard; meeting with Greg Stoddard	562.50
08/05/09	PAUL	Fee: 0.50 hours @ \$75.00/hour Motion for Summary Judgment drafting	37.50
08/05/09	PAUL	Fee: 0.75 hours @ \$75.00/hour Motion for Summary Judgment - Scheiss Lien; Updating Affidavits	56.25
08/06/09	MRF	Fee: 2.00 hours @ \$200.00/hour (Teton View) Two office conferences with Dan to work on strategy for Motion and mediation; review Dan's affidavit regarding professional status of Steven Walker; review all discovery responses from Teton View; prepare for mediation.	400.00
08/06/09	DRB	Fee: 3.75 hours @ \$150.00/hour (Teton View) Reviewing discovery responses from Schiess; meeting with Mark to discuss strategy at mediation; researching Steven Walker on the internet; drafting affidavit regarding Steven Walker; reviewing Motion for Partial Summary Judgment to invalidate Schiess lien.	562.50
08/07/09	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Phone conference with Alan Harrison; Two phone conferences with Greg Stoddard on preparation for mediation.	300.00
08/07/09	PAUL	Fee: 0.75 hours @ \$75.00/hour Updating Motion for Summary Judgment	56.25
08/07/09	PAUL	Fee: 0.50 hours @ \$75.00/hour Updating Motion for Summary Judgment	37.50

08/10/09	MRF	Fee: 9.75 hours @ \$200.00/hour (Teton View) (5:00-5:45 am) Prepare for and attend hearing on Motion for Summary Judgment and Motion by Spafford to withdraw; Office conference with Greg Stoddard; attend mediation in Karl Decker's office (8:30-12:30 pm and 2:30 - 7:30 pm)	1,950.00
08/10/09	DRB	Fee: 3.00 hours @ \$150.00/hour (Teton View) Meeting with Mark to discuss hearing; attending hearing; attending mediation	450.00
08/11/09	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Two phone conferences with Greg Stoddard; Phone conference with Alan Harrison on Mediation completions; review McArthur trust Utah complaint against Spafford, Versteeg and Teton View; Three office conferences with Dan regarding negotiations with Teton View and HD Waterworks following mediation.	300.00
08/11/09	DRB	Fee: 1.25 hours @ \$150.00/hour Meeting with Mark concerning Mediation and litigation strategy; reviewing complaint and answers filed with regard to the 4 acre commercial property;	187.50
08/17/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Review Order from Judge and letter and documents from Harrison; fax all to client.	100.00
08/17/09	MRF	Expense Baker and Harris Mediation Fee	350.00
08/19/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Review documents from Harrison and Order from court on Default; Phone conference with Greg Stoddard; Office conference with Dan on trial strategy.	100.00
08/27/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Office conference with Dan; phone conference with Greg; Phone conference with court clerk regarding entry of Default and Motion for Summary Judgment on Teton View.	50.00
09/02/09	MRF	Fee: 0.50 hours @ \$200.00/hour Review Teton View calculations from Greg to complete Teton View Project; Phone conference with Greg; forward calculations to Alan Harrison.	100.00
09/03/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Review and forward Harrison email to Greg; Phone conference with Alan Harrison regarding costs to complete project; Phone conference with Greg.	100.00
09/08/09	MRF	Fee: 0.50 hours @ \$200.00/hour	100.00

(Teton View) Review email from Hookland regarding HD Waterworks demands; forward to Greg; Phone conference with Greg regarding response and litigation strategy.

09/14/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Two phone conferences with Greg regarding discussions with Oswald and respond to email from Doug Hookland; two emails to Doug Hookland requesting details on HD billing calculations.	100.00
09/29/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Review proposed affidavits from Kip Manwaring regarding HD Waterworks lien claim and respond by email; forward affidavit to Greg.	50.00
10/05/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Two phone conferences with Greg; Phone conference with Alan Harrison review emails from Dave Clark regarding financing and Kip Manwaring regarding McArthur trust.	100.00
10/06/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Greg Stoddard regarding Idaho Development partnership plan and negotiations with HD Waterworks to compromise account; review file and fax invoices and pay applications 1 and 2 to Alan Harrison; email to Kip Manwaring regarding joint settlement of HD Waterworks lien claims.	150.00
10/08/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Phone conference with Kip Manwaring's office regarding Greg's proposed affidavit in HD Waterworks and my prior email on compromise payment of HD.	50.00
10/09/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Deverl regarding status of litigation; emails to Alan Harrison and Greg Stoddard review status of case online and prior orders on obtaining Judgment against Teton View.	150.00
10/13/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Two phone conferences with Greg Stoddard; Phone conference with Kip Manwaring; Phone call to and with Alan Harrison regarding payment of settlement amount to HD Waterworks.	100.00
10/15/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Two phone conferences with Greg regarding loan funds and settlement with HD Waterworks; email to Alan Harrison regarding taking Judgment against Teton View next week.	100.00
10/16/09	MRF	Fee: 1.25 hours @ \$200.00/hour (Teton View) Phone conference with Greg;	250.00

review equitable subordination brief on Idaho Development and forward it to Karl Decker for review regarding ZBS; Office conference with Paul regarding research and revisions to Equitable subordination briefing; Two phone conferences with Alan Harrison regarding loans to Teton View; three phone calls to Greg.

10/16/09	PAUL	Fee: 0.75 hours @ \$75.00/hour Reviewing Motion on Equitable Subordination	56.25
10/19/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Greg; Phone call to and email to Karl Decker; dictate affidavit of default and interest accrual and Order of Summary Judgment against Teton View Golf Estates, LLC.	150.00
10/20/09	MRF	Fee: 1.00 hours @ \$200.00/hour (Teton View) revise affidavit of default and Order on Summary Judgment; Two phone conferences with Greg Stoddard review email letter from Hookland and forward to Greg; Phone conference with Alan Harrison; emails to Karl Decker.	200.00
10/21/09	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Phone conference with Karl Decker; Three phone conferences with Greg Stoddard regarding Motion for Summary Judgment for Equitable subordination; email to Alan Harrison regarding Subordination of Idaho developments interest in project; email to Kip Manwaring on Mac Arthur trust increasing contribution to HD payment; Phone conference with Alan Harrison.	300.00
10/22/09	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Revise affidavit and Order on Summary Judgment; email to Kipp Manwaring on HD Settlement; two phone conferences with Greg regarding HD negotiations and other issues; Phone call to Doug Hookland regarding HD Settlement proposal; Phone conference with Hookland.	300.00
10/22/09	DRB	Fee: 0.50 hours @ \$150.00/hour Meeting with Mark to discuss trial strategy and discovery in Teton View case	75.00
10/23/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Phone conference with Greg regarding litigation strategy and settlement with HD Waterworks.	50.00
10/26/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Two phone conferences with Greg; Phone call to Doug Hookland regarding HD Supply; Phone conference with Doug Hookland on settlement offer.	100.00
10/27/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Alan	150.00

Harrison regarding Joint Venture options.  
Two phone conferences with Greg regarding HD  
Waterworks negotiations; Phone conference  
with Deverl regarding pending cases.

10/29/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Two phone conferences with Kip Manwaring regarding Trethaway payment; Phone conference with Greg Stoddard; email to Doug Hookland regarding payment of settlement amount; preparation of documents, lien releases, etc. with copy to all counsel; exchange emails with Hookland, etc.	150.00
10/30/09	DRB	Fee: 2.00 hours @ \$150.00/hour Multiple phone conversations with Greg Stoddard and Doug Hookland; reviewing lien release and settlement agreement documents; phone conversation with Mark and with Alan Harrison	300.00
11/03/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) review all HD Settlement documents and email to Hookland, manwaring and Harrison; Phone conference with Greg regarding signing second draft of Mutual release.	100.00
11/04/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Review and respond to emails regarding resolution documents on HD Waterworks; emails to Hookland, Harrison and Manwaring.	100.00
11/05/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Two phone conferences with Deverl Stoddard regarding Motion for Summary Judgment on equitable subordination.	150.00
11/09/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) email to all counsel involved to obtain signatures on stipulations for dismissal and mutual release; Exchange emails with Hookland and Mollerup; phone call to Idaho Title regarding stipulation.	100.00
11/10/09	MRF	Fee: 0.25 hours @ \$200.00/hour Office conference with Greg regarding Teton View litigation.	50.00
11/18/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) E-mails to Hookland, Brunson, Manwaring, Watson, to get signatures on Stipulation; Two phone calls Ed Watson; deposit McArthur settlement funds.	100.00
11/19/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Office conference with Gil Gardner to get stipulation signature from Idaho Title; email to Doug Hookland to complete stipulation and get lien release recorded.	50.00
11/20/09	MRF	Fee: 0.50 hours @ \$200.00/hour	100.00

Phone conference with Greg regarding Teton View, review LLC Proposal from Zundel regarding Teton View; Email to Hookland on HD Paperwork.

12/08/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Revise affidavit regarding default Order on Teton View.	100.00
12/10/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton view) Final revisions to Order on Summary Judgment and Default and submit to court.	50.00
12/14/09	MRF	Fee: 0.125 hours @ \$200.00/hour Phone conference with Greg regarding Teton View Motion strategy.	25.00
12/15/09	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Greg; Phone conference with Alan Harrison regarding application for default and settlement options.	100.00
12/17/09	PAUL	Fee: 1.00 hours @ \$75.00/hour Reviewing Motion on Equitable Subordination	75.00
12/18/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Office conference with Greg Stoddard and Deverl Stoddard regarding pending and future motions.	50.00
12/22/09	MRF	Fee: 0.125 hours @ \$200.00/hour Phone conference with Greg regarding Teton View.	25.00
12/23/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Phone conference with Dick Trethaway regarding sale of McArthur trust commercial property; Phone conference with Greg.	50.00
12/24/09	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Revise brief on equitable subordination and office conference with Dan on motion scheduling; Phone conference with court clerk to set hearing on Motion for Summary Judgment.	150.00
12/24/09	DRB	Fee: 0.50 hours @ \$150.00/hour Reviewing and revising motion for summary judgment regarding equitable subordination	75.00
12/28/09	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Review Order on Summary Judgment in Teton View case and fax to client; work with Paul on further briefing on equitable subordination Motion for Summary Judgment against Idaho Development.	300.00
12/29/09	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Revise briefing and affidavits to support Motion for Summary Judgment on equitable subordination against Teton View	300.00



and to defeat lien by Scheiss; revise notices of hearing; email briefs to Stoddard; Phone conference with Greg; forward briefs to Greg Stoddard.

12/31/09	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Organize exhibits for affidavits supporting Summary Judgment Motions against Scheiss and Idaho Development.	50.00
01/04/10	MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Deverl Stoddard regarding Teton View Motion Status.	50.00
01/04/10	MRF	Fee: 1.00 hours @ \$200.00/hour (Teton View) work with Paul on revisions to briefing and affidavits in Motion for Summary Judgment against Idaho Development and Teton View; file all motions against Teton View and serve on all counsel.	200.00
01/04/10	PAUL	Fee: 1.00 hours @ \$75.00/hour Revising Motion on Equitable Subordination / Recharacterization; Revising Scheiss Motion	75.00
01/05/10	MRF	Fee: 0.50 hours @ \$200.00/hour Two phone conferences with Greg regarding Teton View; Phone conference with Alan Harrison regarding Motion for Summary Judgment and meeting; Phone conference with Greg Stoddard regarding meeting with Idaho Development and Zundells.	100.00
01/08/10	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Phone call to Karl Decker to set meeting with ZBS clients; Phone conference with Greg; Phone conference with Karl Decker regarding ZBS.	50.00
01/11/10	MRF	Fee: 0.125 hours @ \$200.00/hour Phone conference with Greg regarding Teton View.	25.00
01/12/10	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Office conference with Greg regarding negotiations with Zundell and possible meeting with Idaho Development.	100.00
01/12/10	DRB	Fee: 0.25 hours @ \$150.00/hour Meeting with Mark and Greg Stoddard to discuss motion for summary judgment in Teton View/Idaho Development case	37.50
01/13/10	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton view) Phone conference with Alan Harrison regarding Teton View Motions and possible meeting; Phone conference with Greg Stoddard.	50.00
01/19/10	MRF	Fee: 0.75 hours @ \$200.00/hour Phone conference with Greg Stoddard Greg Stoddard regarding ZBS meeting;	150.00

email to Alan Harrison that meeting will not occur; Phone call to Carl Decker to schedule meeting on ZBS.

01/20/10	MRF	Fee: 0.50 hours @ \$200.00/hour Two phone conferences with troy regarding Valley View; Phone conference with Greg regarding Teton View Motion for Summary Judgment and Phone call by Greg to Steve Zundell and Lynn Spafford; Phone conference with Carl Decker regarding ZBS Meeting; Phone conference with greg regarding meeting with ZBS.	100.00
01/21/10	MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Greg regarding Teton View motions and meeting with ZBS tomorrow.	50.00
01/22/10	MRF	Fee: 1.25 hours @ \$200.00/hour (Teton View) Phone conference with Greg; Office conference with Greg and Karl Decker regarding ZBS support for Motion for Summary Judgment on Equitable Subordination of Idaho Development Deed of Trust.	250.00
01/25/10	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Review brief from Scheiss supporting Motion on Equitable subordination and forward to client.	50.00
01/26/10	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Review briefing and all affidavits from Harrison, Clark & Boswell; review support brief from ZBS, LLC; Phone conference with Greg; two office conferences with Dan regarding reply briefing.	300.00
01/26/10	DRB	Fee: 4.50 hours @ \$150.00/hour (Teton View) Reviewing Idaho Development's opposition to Motion for Summary Judgment; researching case law cited by Harrison's brief; drafting notes for reply brief	675.00
01/27/10	MRF	Fee: 2.50 hours @ \$200.00/hour (Teton View) Three office conferences with Dan regarding reply brief on Motion for Summary Judgment on equitable subordination; two phone conferences with Greg; complete review of all affidavits and briefing from Alan Harrison; work on revision to reply brief.	500.00
01/27/10	DRB	Fee: 4.75 hours @ \$150.00/hour (Teton View) Meeting with Mark; researching case law; drafting reply in support of Motion for Summary Judgment	712.50
01/28/10	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) work on revisions to Reply brief on Equitable Subordination and recharacterization of Idaho Development debt.	300.00

01/28/10	DRB	Fee: 5.25 hours @ \$150.00/hour (Teton View) Drafting reply in support of Motion for Summary Judgment; researching cases related corporate ownership and agency; meeting with Mark; reviewing pleadings filed by the parties in the case	787.50
01/29/10	MRF	Fee: 1.50 hours @ \$200.00/hour Further revisions to Reply brief in Teton View; Office conference with Dan on changes and email to Greg; Office conference with Alan Harrison; review additional documents from Harrison in opposition to Motion for Summary Judgment; Phone conference with Greg regarding Teton View and Summit properties transactions.	300.00
01/29/10	DRB	Fee: 1.75 hours @ \$150.00/hour (Teton View) Revising reply brief	262.50
02/01/10	DRB	Fee: 1.25 hours @ \$150.00/hour (Teton View) Reviewing documents to Harrison's Second Affidavit; revising Reply Brief	187.50
02/03/10	MRF	Fee: 0.125 hours @ \$200.00/hour Phone conference with Greg regarding Teton View case.	25.00
02/04/10	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Phone conference with Karl Decker regarding briefing and argument on Motion for Summary Judgment	50.00
02/05/10	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Phone conference with Alan Harrison; Phone conference with Greg Stoddard; Two office conferences with Dan regarding files and prepare for argument on Equitable Subordination.	300.00
02/08/10	MRF	Fee: 3.75 hours @ \$200.00/hour (Teton View) 2ocw Dan; prepare for and attend hearing on equitable subordination of Idaho Development loan; Office conference with Greg and Deverl Stoddard; Office conference with Carl Decker; Office conference with Alan Harrison; Phone conference with Karl Decker regarding Deposition scheduling; Phone conference with Jeff Brunson; email to all counsel regarding deposition scheduling review statutes regarding redemption rights on lien foreclosure; forexlosures; forward email to Greg on redemption rights; work on revisions to Motion to defeat Schuss lien claim.	750.00
02/08/10	DRB	Fee: 2.00 hours @ \$150.00/hour Meeting with Mark to prepare for hearing; attending hearing; researching case law and statutes related to ability to redeem from a lien foreclosure	300.00

02/09/10	MRF	Fee: 2.50 hours @ \$200.00/hour (Teton View) Research and work on revision to brief supporting Motion for Summary Judgment against Scheiss lien; revise Supporting Affidavit; revise Notice of Hearing; Two office conferences with Dan Beck regarding technical application of lien statute regarding verification of lien.	500.00
02/10/10	MRF	Fee: 3.75 hours @ \$200.00/hour (Teton View) four phone conferences with Greg; research on validity of Deed of Trust filed by Idaho Development and ZBS; work on revisions to Motion for Summary Judgment regarding Scheiss lien claim; research on Alpha Mechanical lien case and attach decision to briefing.	750.00
02/11/10	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Review discovery responses from Schiess and work on briefing to support Motion for Summary Judgment to defeat Schiess lien; revise affidavit of Fuller with all exhibits.	300.00
02/11/10	DRB	Fee: 2.25 hours @ \$150.00/hour (Teton View) Drafting deposition questions for Melinda Boswell	337.50
02/12/10	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone conference with Alan Harrison regarding depositions for Spafford and Versteeg and further discovery and trial preparation; Office conference with Dan regarding pending motions.	100.00
02/12/10	DRB	Fee: 2.25 hours @ \$150.00/hour (Teton View) Drafting deposition questions for Melinda Boswell; reviewing discovery responses and pleadings	337.50
02/16/10	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) final revisions to Motion for Summary Judgment on Scheiss and Fuller affidavit and forward to Greg Stoddard for review.	150.00
02/16/10	DRB	Fee: 5.00 hours @ \$150.00/hour (Teton View) Revising Notice of Deposition Duces Tecum for Melinda Boswell; drafting deposition questions for Melinda Boswell; drafting deposition questions for David Clark	750.00
02/17/10	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Office conference with Dan regarding briefing on Scheiss lien; Office conference with Dan regarding preparation for Boswell and Clark Deposition; Phone conference with Greg Stoddard; revise notices for depositions duces Tecum for Boswell and Clark.	150.00
02/17/10	DRB	Fee: 3.00 hours @ \$150.00/hour	450.00

(Teton View) Revising Motion for Summary Judgment RE: Schiess Lien; drafting deposition questions for Melinda Boswell and David Clark

02/22/10	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) work on deposition questions for Dave Clark and Melinda Boswell; review further discovery responses from Idaho Development; revise affidavit exhibits regarding Scheiss Motion for Summary Judgment on invalid lien; Prepare acknowledgment of service regarding Dave Clark.	300.00
02/23/10	MRF	Fee: 2.50 hours @ \$200.00/hour (Teton View) Continue preparation for Clark and Broswell depositions; prepare and revise subpoenas; acknowledgments of service, letter to Alan Harrison; copy and mark all exhibits for depositions; Office conference with Dan regarding stipulations and other documents needed for exhibits.	500.00
02/24/10	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Review discovery requests from Scheiss and Office conference with Dan to work wtrategy to seek protective order or object to Discovery method which prejudices Depatco lien interests.	150.00
02/25/10	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Phone call to Alan Harrison; research on possible options to oppose discovery requests by Scheiss; fax discovery documents to Greg for review and response.	100.00
02/25/10	DRB	Fee: 1.75 hours @ \$150.00/hour (Teton View) Researching case law and rules related to requests for admissions	262.50
02/26/10	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Alan Harrison regarding discovery, depositions and resolution options; Phone conference with Greg regarding settlement discussions and discovery.	150.00
03/01/10	MRF	Fee: 2.25 hours @ \$200.00/hour (Teton View) Phone conference with Greg; Office conference with Dan regarding liens; Phone conference with Jeff Brunson; review discovery requests from ZBS and fax to Greg; dictate letter to Jeff Brunson regarding settlement conference with Schiess and ZBS and Depatco; Phone call to Karl Decker; Phone conference with Greg, Daniel, Jed, etc. regarding setting up settlement conference with ZBS and Scheiss; revise letter to Brunson and fax with Alpha Mechanical decision; review discovery requests from Idaho Development; Two phone calls Greg; Phone conference with Karl Decker regarding possible settlement	450.00

conference.

03/01/10	DRB	Fee: 3.25 hours @ \$150.00/hour (Teton View) Reviewing discovery requests from Schiess and ZBS; phone conversation with Jeff Brunson; phone conversation with Greg Stoddard; meeting with Mark to discuss strategy and settlement options; revising deposition questions for Clark and Boswell	487.50
03/02/10	MRF	Fee: 1.75 hours @ \$200.00/hour Dictate Motion regarding Scheiss and revise Brief; review discovery from Idaho Development in Teton View and Office conference with Dan regarding responses; revise depo questions for Boswell and Clark and fax to Greg; Office conference with Kirk Woolf regarding Scheiss and associates and contact with Kurt Roland; revise Scheiss Motion; Phone conference with Karl Decker; review Affidavit of Versteeg, Spafford and Burton and modify Scheiss Motions and Briefing to include citations and quotes.	350.00
03/02/10	DRB	Fee: 3.50 hours @ \$150.00/hour (Teton View) Drafting discovery responses to Schiess and Associates Discovery Requests.	525.00
03/03/10	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Final revisions to Brief Supporting Scheiss Motion for Summary Judgment; Office conference with Dance; discovery responses to Scheiss, Idaho Development and ZBS; work on revision to questions for Clark and Boswell; Phone conference with Jeff Brunson regarding meeting with Scheiss and Motion for Summary Judgment on Scheiss lien.	150.00
03/03/10	DRB	Fee: 3.25 hours @ \$150.00/hour (Teton View) Drafting discovery responses to Schiess and Associates discovery Requests. Drafting responses to ZBS's discovery requests	487.50
03/04/10	MRF	Fee: 1.75 hours @ \$200.00/hour (Teton View) Two phone calls Greg; complete preparation for Boswell and Clark depositions and copy all exhibits for depositions; Phone conference with kurt roland regarding Scheiss lien; Phone conference with Greg regarding deposition questions. Dictate affidavit for kurt Roland regarding property ownership by Teton View Golf Estates, LLC	350.00
03/04/10	DRB	Fee: 2.50 hours @ \$150.00/hour (Teton View) Drafting discovery responses to Schiess and Associates discovery Requests. Drafting responses to ZBS's discovery requests	375.00
03/05/10	MRF	Fee: 7.00 hours @ \$200.00/hour (Teton View) Attend depositions of Boswell	1,400.00

and Clark; Office conference with Clients regarding Settlement proposals.

03/05/10	DRB	Fee: 3.25 hours @ \$150.00/hour (Teton View) Meeting with Mark to prepare for depositions; drafting discovery responses to Idaho Development's Discovery requests.	487.50
03/08/10	MRF	Fee: 1.75 hours @ \$200.00/hour (Teton View) Two phone conferences with Kurt Roland regarding affidavit; Phone conference with Jeff Brunson regarding possible settlement conference with Scheiss and ZBS; Office conference with Dan regarding issues discussed in Boswell and Clark depositions; final review and filing review and filing of Motion Affidavit, Notice and brief on Scheiss lien Motion for Summary Judgment; dictate letter to Harrison regarding document production after deposition; Phone conference with Greg regarding depositions; review Expert Witness disclosure from Roland; Phone conference with Brunson regarding Roland.	350.00
03/08/10	DRB	Fee: 1.25 hours @ \$150.00/hour (Teton View) Revising discovery responses to Idaho Development, Schiess, and ZBS	187.50
03/09/10	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Office conference with Dan on discovery responses; Two phone conferences with Greg regarding Expert witnesses and settlement negotiations.	100.00
03/10/10	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Email to all counsel regarding scheduling depositions of Scheiss expert witnesses.	50.00
03/11/10	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Review supplemental discovery responses from Harrison; Two phone conferences with Greg; Phone conference with Rick Hajek at Amerititle regarding documents on subordination; Phone conference with Alan Harrison; work on revisions to discovery requests from ZBS, Idaho Development and Scheiss.	300.00
03/12/10	DRB	Fee: 0.75 hours @ \$150.00/hour (Teton View) Meeting with Mark to discuss trial strategy; researching case law	112.50
03/15/10	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Phone conference with Karl Decker regarding ZBS position on Scheiss Motion for Summary Judgment	50.00
03/16/10	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) review settlement proposal from Alan Harrison and Email to Greg Stoddard; Phone conference with Greg regarding	50.00

negotiation strategy.

03/17/10	MRF	Fee: 1.00 hours @ \$200.00/hour (Teton View) complete revisions of discovery responses to Schiess, Idaho Development, ZBS and Zundells.	200.00
03/18/10	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) further revisions to discovery responses to Idaho Development; Phone conference with Judge's clerk regarding notice of hearing on Scheiss Motion for Summary Judgment; Office conference with Greg regarding negotiation for release of Schiess lien.	150.00
03/18/10	DRB	Fee: 1.25 hours @ \$150.00/hour (Teton View) Revising discovery responses to ZBS, Schiess, and Idaho Development	187.50
03/19/10	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Review documents produced to Idaho Development by amerititle to locate subordination agreement by ZBS; fax amerititle officer's notes to client; Two phone conferences with Greg Stoddard regarding continued settlement negotiating with ZBS and with Idaho Development and Schiess and associates.	150.00
03/19/10	DRB	Fee: 0.50 hours @ \$150.00/hour (Teton View) Revising discovery responses to ZBS, Schiess, and Idaho Development	75.00
03/22/10	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Review briefing and affidavits by Scheiss in opposition to Motion for Summary Judgment and email to Greg regarding deposition of Burton; two office conferences with Dan regarding reply briefing strategy; Phone conference with DeVerl Stoddard.	300.00
03/22/10	DRB	Fee: 4.75 hours @ \$150.00/hour (Teton View) Revising discovery responses to ZBS, Schiess, and Idaho Development; organizing exhibits for use at trial; reviewing response to motion for summary judgment filed by Schiess and Associates; researching case law for response brief	712.50
03/23/10	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Alan Harrison regarding Schiess Motion for Summary Judgment and settlement negotiations; emails to greg regarding discovery and Burton Deposition; Office conference with Dan regarding Scheiss reply brief; Phone conference with Greg.	150.00
03/23/10	DRB	Fee: 3.25 hours @ \$150.00/hour (Teton View) Revising discovery responses to Schiess; organizing exhibits; meeting with Mark to discuss upcoming hearing on Motion for Summary Judgment regarding Schiess's	487.50



lien; researching case law for response  
brief

03/24/10	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Review Supplemental affidavit of Lance Schuster and research on reply brief for scheiss lien Motion for Summary Judgment; two office conferences with Dan regarding status of further research.	100.00
03/24/10	MRF	Expense (Teton View) Copies for Depositions	45.40
03/25/10	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Research and work on brief in reply to Schiess briefing on Schiess lien Motion for Summary Judgment; 3 phone conferences with Gerg Stoddard regarding possible continuance and/or affidavit from Jeff Burton; office conference and phone conference with Dan regarding Motion for Summary Judgment.	300.00
03/25/10	MRF	Expense (Teton View) Deposition fees - Boswell and Clark	1,187.50
03/26/10	MRF	Fee: 1.75 hours @ \$200.00/hour (Teton View) Two phone conferences with Greg regarding discovery response supplements; dictate additional witness disclosures; revise and file amended Notice of hearing on Scheiss Motion for Summary Judgment; revise, copy and mail discovery responses to all parties; review revised Scheiss Exhibits.	350.00
03/29/10	DRB	Fee: 1.75 hours @ \$150.00/hour (Teton View) Phone conversation with Greg Stoddard regarding appraisal from Teton View and settlement proposal from ZBS. Reviewing discovery responses from Idaho Development; reviewing discovery responses from Schiess	262.50
04/02/10	MRF	Fee: 1.25 hours @ \$200.00/hour (Teton View) Review decision on Motion for Summary Judgment regarding recharacterization of Idaho Development investment; Office conference with Dan; Phone conference with Greg on Saturday (4/3) to discuss recent decision and plans for further litigation strategy.	250.00
04/02/10	DRB	Fee: 1.25 hours @ \$150.00/hour (Teton View) Reviewing Court's decision on Motion for Summary Judgment; meeting with Mark to discuss trial strategy on remaining issues	187.50
04/05/10	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Forward recent decision to Decker and Stoddard; Phone conference with Karl Decker regarding settlement letter and effect of recent decision and Motion for Summary Judgment against Scheiss and	300.00

Associates; Emails to Brunson, Harrison, Decker and Roland regarding depositions of Scheiss and Roland; Phone conference with Alan Harrison regarding recent decisions and further litigation progress and Motions; Office conference with Dan regarding deposition questions for Schiess and Roland.

04/05/10	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Review Motion for Partial Summary Judgment filed by Scheiss and Office conference with Dan regarding revised Motion for Summary Judgment on Schiess lien priority.	50.00
04/05/10	DRB	Fee: 1.75 hours @ \$150.00/hour (Teton View) Reviewing motion for summary judgment filed by Schiess and Associates; researching case law; meeting with Mark; drafting deposition questions for Kurt Roland Deposition	262.50
04/06/10	MRF	Expense (Teton View) Kurtis Roland - Subpoena service fee	25.00
04/06/10	MRF	Fee: 4.50 hours @ \$200.00/hour (Teton View) Work on revisions to Scheiss Motion for Summary Judgment; Exchange emails regarding Schiess and Roland depositions; Phone conference with Karl Decker regarding ZBS Motion for Summary Judgment; revise Motion and review Scheiss Motion for Summary Judgment briefing and affidavit; review Motion by Schiess and second affidavit from David Schiess; review Motion for Summary Judgment briefing from ZBS; review Motion from Scheiss regarding Judgment against Teton View; Phone call to and Office conference with Greg Stoddard regarding Teton View; Prepare and revise deposition notices, subpoena and letter to process server regarding Roland Deposition.	900.00
04/06/10	DRB	Fee: 6.25 hours @ \$150.00/hour (Teton View) Researching case law regarding engineers and mechanic's liens; drafting Brief in Support of Amended Motion for Summary Judgment; meeting with Mark; Meeting with Greg Stoddard; organizing documents in file; reviewing discovery responses from ZBS and Schiess; reviewing Request for Default filed by Schiess	937.50
04/07/10	MRF	Fee: 2.50 hours @ \$200.00/hour (Teton View) Three phone conferences with Greg; Two office conferences with Dan regarding settlement negotiations with ZBS and Schiess and Phone conference with Jeff Brunson; review Motions from Schiess and ZBS on default Judgment and Motion for Summary Judgment	500.00
04/07/10	DRB	Fee: 4.75 hours @ \$150.00/hour	712.50

(Teton View) Drafting deposition questions for Kurt Roland and David Schiess; phone conversation with Jeff Brunson regarding Schiess' claim; phone conversation with Greg Stoddard regarding settlement options; drafting email to DePatco regarding trial strategy; meeting with Mark

04/08/10	DRB	Fee: 3.75 hours @ \$150.00/hour Drafting deposition questions for Kurt Roland and David Schiess; reviewing documents received from ZBS on CD disk	562.50
04/09/10	DRB	Fee: 3.75 hours @ \$150.00/hour Drafting deposition questions for Kurt Roland and David Schiess; organizing documents to be used at deposition.	562.50
04/12/10	MRF	Fee: 2.50 hours @ \$200.00/hour (Teton View) Office conference with Dan regarding deposition questions for Schiess and Roland; Two phone conferences with Greg; Office conference with Dan regarding settlement negotiations with Schiess and Zundells; Phone conference with Greg Stoddard; Phone call to Karl Decker regarding Zundell meeting; work on revisions to Roland and Schiess depositions.	500.00
04/12/10	DRB	Fee: 5.25 hours @ \$150.00/hour Drafting Deposition questions for Kurt Roland and David Schiess depositions; researching case law regarding agency for reply brief; phone conversation with Karl Decker; two phone conversations with Greg Stoddard; meeting with Mark; reviewing email from Jeff Brunson	787.50
04/13/10	MRF	Fee: 2.50 hours @ \$200.00/hour (Teton View) complete preparation for Schiess and Roland depositions; Phone conference with Karl Decker; Phone conference with Greg Stoddard; Phone conference with Jeff Brunson regarding meeting scheduling and settlement negotiations.	500.00
04/13/10	DRB	Fee: 2.50 hours @ \$150.00/hour (Teton View) Revising deposition questions for Schiess and Roland; phone conversation with Karl Decker; meeting with Mark; drafting reply to Schiess' Motions for Partial Summary Judgment	375.00
04/14/10	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Karl Decker to set meeting; Two phone conferences with Greg Stoddard; ZBS Schiess negotiations revise settlement agreement drafted by Dan regarding Schiess and ZBS	150.00
04/14/10	DRB	Fee: 3.25 hours @ \$150.00/hour (Teton View) Drafting Settlement Agreement to Allow Joint Foreclosure; revising	487.50

deposition questions.

04/15/10	MRF	Fee: 3.50 hours @ \$200.00/hour (Teton View) Five Phone conferences with Karl Decker; Office conference with Greg Stoddard regarding revisions to settlement agreement on Stoddard / Scheiss / ZBS; negotiations on partial settlement; email to Kurt Roland regarding cancellation of depositions.	700.00
04/15/10	DRB	Fee: 5.75 hours @ \$150.00/hour (Teton View) Preparing for depositions; multiple phone conversations with Jeff Brunson and Karl Decker; meeting with Mark and Greg Stoddard; phone conference with Greg Stoddard, Mark Fuller and Deverle Stoddard; drafting Settlement Agreement	862.50
04/16/10	MRF	Expense (Idaho Development) Matt Tolman	30.00
04/16/10	MRF	Fee: 0.50 hours @ \$200.00/hour (Teton View) Two phone conferences with Greg Stoddard; Office conference with Dan regarding revisions to settlement agreement with ZBS and Schiess.	100.00
04/16/10	DRB	Fee: 3.75 hours @ \$150.00/hour (Teton View) Phone conversation with Greg Stoddard regarding settlement; phone conversation with Karl Decker; phone conversation with Jeff Brunson; revising settlement agreement; meeting with Mark; drafting email to Karl Decker and Jeff Brunson	562.50
04/19/10	MRF	Fee: 1.50 hours @ \$200.00/hour (Teton View) Two phone conferences with Greg; review final compromise agreement and forward to Jeff Brunson for signature by Schiess; Three phone conferences with Jeff Brunson regarding Schiess signing; two office conferences with Dan regarding final Motion for Judgment and for Rule 54(b) certificate.	300.00
04/19/10	DRB	Fee: 1.75 hours @ \$150.00/hour (Teton View) Phone conversation with Greg Stoddard; reviewing emails from Karl Decker and Jeff Brunson; meeting with Mark	262.50
04/20/10	MRF	Fee: 2.25 hours @ \$200.00/hour (Teton View) Office conference with Dan; review all prior judgments and dictate Motion, Notice and Order approving settlement agreement and Granting Rule 54(b) certificate; Phone conference with Greg; review revised motion and Notice of Hearing from Schiess; revise Motion Notice and Order and file with court; fax copy to client.	450.00
04/22/10	MRF	Fee: 1.50 hours @ \$200.00/hour	300.00

Page 30

(Teton View) Review Idaho Development opposition briefing and affidavits regarding ZBS Summary Judgment motion; Phone conference with Alan Harrison; Phone call to Karl Decker; Phone conference with Greg regarding all parties and enforcement of ZBS Deed of Trust and Settlement agreement; Phone conference with Karl Decker regarding response to Teton View Briefing.

04/24/10	MRF	Expense: 212 @ \$0.10 each (Teton View) Copies	21.20
04/26/10	DRB	Fee: 0.25 hours @ \$150.00/hour Reviewing Plaintiff's response to ZBS's Motion for Summary Judgment.	37.50
04/27/10	MRF	Fee: 0.75 hours @ \$200.00/hour Review response brief, affidavit and default documents from ZBS regarding Motion for Summary Judgment.	150.00
04/28/10	MRF	Fee: 0.25 hours @ \$200.00/hour Phone conference with Greg regarding ZBS reply brief and further proceedings in foreclosure.	50.00
04/28/10	DRB	Fee: 0.25 hours @ \$150.00/hour (Teton View) Reviewing response briefing from ZBS; meeting with Mark to discuss upcoming hearing.	37.50
04/30/10	MRF	Fee: 0.25 hours @ \$200.00/hour (Teton View) Review Harrison response to Motion for Judgment on Foreclosure and Motion to Stay execution.	50.00
05/03/10	MRF	Fee: 0.75 hours @ \$200.00/hour (Teton View) Phone conference with Greg regarding hearings tomorrow on ZBS Motion for Summary Judgment and DePatco's Motion to Enforce Stipulation on Foreclosure; emails to Greg; phone conference with Karl Decker regarding Alliance Title default issues at trial.	150.00
05/04/10	MRF	Fee: 4.50 hours @ \$200.00/hour (Teton View) Prepare for and attend hearing on ZBS Motion for Summary Judgment; Sheiss Motion for Default and DePatco Motion for Final Judgment on Foreclosure; phone conference with Karl Decker; office conference with Harrison, Brunson and Decker regarding settlement options; phone conference with Greg Stoddard regarding Motion for Reconsideration; email proposed final Judgment to Karl Decker; office conference with Dan regarding briefing and argument on Motion to Reconsider.	900.00
05/04/10	DRB	Fee: 2.25 hours @ \$150.00/hour (Teton View) Meeting with Mark to prepare for hearing; reviewing affidavit of	337.50

Melinda Boswell and Motion to Reconsider  
filed by Harrison.

05/05/10	MRF	Fee: 1.00 hours @ \$200.00/hour Dictate, review and revise Brief in Opposition to Motion for Reconsideration	200.00
05/17/10	MRF	Fee: 1.00 hours @ \$200.00/hour Review billing statements; review and revise Motion for Attorney Fees, Notice of Hearing and Memorandum of Attorney Fees and Costs.	200.00

Hours: 396.875

Fees: \$64,386.25  
Expenses: 1,749.10

MARK R. FULLER (ISB No. 2698)  
FULLER & CARR  
410 MEMORIAL DRIVE, SUITE 201  
P.O. Box 50935  
IDAHO FALLS, ID 83405-0935  
TELEPHONE: (208) 524-5400  
FACSIMILE: (208) 524-7167

7TH JUDICIAL DISTRICT COURT  
BONNEVILLE COUNTY, IDAHO

10 MAY 20 10:16

ATTORNEY FOR DEFENDANT - DePATCO, INC.

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL  
DISTRICT OF THE STATE OF IDAHO IN AND FOR  
THE COUNTY OF BONNEVILLE**

IDAHO DEVELOPMENT COMPANY, )  
LLC., a Utah limited liability )  
company, )

Plaintiff, )

v. )

TETON VIEW GOLF ESTATES, LLC., )  
a Utah limited liability )  
company, ROTHCHILD PROPERTIES, )  
LLC., a Utah limited )  
liability, WESTERN EQUITY, )  
LLC., a Utah limited liability )  
company, AMERITITLE COMPANY, )  
ZBS, LLC., an Idaho limited )  
liability company, DEPATCO, )  
INC., an Idaho corporation, )  
SCHIESS & ASSOCIATES, PC., an )  
Idaho Professional Service )  
Corporation, HD SUPPLY )  
WATERWORKS, LTD., DOES 1-3, )  
and ALL PERSONS IN POSSESSION )  
OF REAL PROPERTY DESCRIBED )  
HEREIN, )

Defendants. )

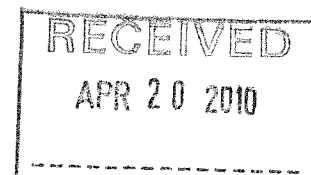
Case No. CV-08-4395

**JUDGMENT AND ORDER APPROVING  
SETTLEMENT AGREEMENT TO  
PERFORM JOINT FORECLOSURE  
AND CERTIFICATE OF FINAL  
JUDGMENT**

Whereas the above-entitled matter came before this Court  
pursuant to the Motion of DePatco, Inc., to approve the Settlement

JUDGMENT AND ORDER APPROVING SETTLEMENT AGREEMENT TO PERFORM JOINT FORECLOSURE AND CERTIFICATE OF FINAL JUDGMENT - 1

945



Agreement to Perform Joint Foreclosure, dated April 19, 2010, and for Certificate of Final Judgment; and

WHEREAS, DePatco, Inc., appeared by its counsel of record, Mark R. Fuller, Schiess & Associates, P.C., appeared by its counsel, Jeff Brunson, ZBS, LLC., appeared by its counsel, Karl Decker, and Idaho Development, LLC., appeared by its counsel, Alan Harrison, and the Court being fully informed in the premises enters the following Judgment and Order:

1. The Judgments previously awarded to DePatco, Inc., in the amount of \$729,357.51 plus accruing interest from December 22, 2009, at the rate of 5.625% per annum, together with the Judgments awarded to ZBS, LLC., and to Schiess & Associates, P.C., pursuant to separate Judgments, shall be jointly foreclosed against the subject property, with each claim having an equal priority.

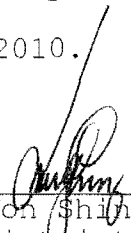
2. DePatco, ZBS and Schiess & Associates shall jointly issue a single credit bid against the property which shall include all principle, interest and any attorney fees and costs awarded to each party. If a third party's bid exceeds the credit bid, DePatco, ZBS, and Schiess & Associates shall be paid in full, with any remaining funds being paid to Idaho Development, LLC., through its counsel of record. If no third party bid exceeds the combined credit bid, then the parties shall take the property jointly, subject to any redemption rights of Teton View Golf Estates, LLC.

3. Any claims by Schiess & Associates against Brad Zundel



and Jim Zundel personally, are hereby DISMISSED with prejudice.

DATED this 4 day of May, 2010.

  
\_\_\_\_\_  
Jon Shindurling  
District Judge

**RULE 54(b) CERTIFICATE**

With respect to the issues determined by the above Judgment and Order it is hereby CERTIFIED, in accordance with Rule 54(b), IRCP, that the Court has determined that there is no just reason for delay of the entry of a final Judgment and that the Court has and does hereby direct that the above Judgment or Order shall be a final Judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED this \_\_\_\_ day of May, 2010.

\_\_\_\_\_  
Jon Shindurling  
District Judge

NOTICE OF ENTRY

I HEREBY CERTIFY that I mailed a conformed copy of the foregoing JUDGMENT AND ORDER to the parties listed below on this

20 day of May, 2009.

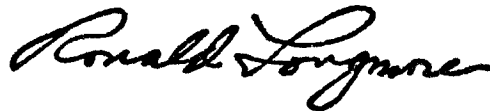
Mark R. Fuller, Esq.  
FULLER & CARR  
P.O. Box 50935  
Idaho Falls, ID 83405

Alan R. Harrison, Esq.  
ALAN HARRISON LAW, PLLC  
497 N. Capital Ave., Ste. 210  
Idaho Falls, ID 83402

Jeffrey Brunson, Esq.  
BEARD ST. CLAIR  
2105 Coronado  
Idaho Falls, ID 83404

Karl Decker, Esq.  
HOLDEN KIDWELL HAHN & CRAPO  
P.O. Box 50130  
Idaho Falls, ID 83405

Rick Hajek (Amerititle)  
1650 Elk Creek  
Idaho Falls, ID 83404



CLERK

BY:   
Deputy Clerk

JUDGMENT AND ORDER APPROVING SETTLEMENT AGREEMENT TO PERFORM JOINT FORECLOSURE AND CERTIFICATE OF FINAL JUDGMENT - 5

Karl R. Decker, ISB #3390  
Holden, Kidwell, Hahn & Crapo, P.L.L.C.  
1000 Riverwalk Drive, Suite 200  
P.O. Box 50130  
Idaho Falls, ID 83405  
Telephone 208-523-0620  
Facsimile 208-523-9518

Attorneys for ZBS, LLC

BONNEVILLE COUNTY

10 MAY 20 14:55

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

IDAHO DEVELOPMENT, LLC, a Utah  
limited liability company,

Plaintiff,

vs.

TETON VIEW GOLF ESTATES, LLC, a  
Utah limited liability company;  
ROTHCHILD PROPERTIES, LLC, a  
Utah limited liability company;  
WESTERN EQUITY, LLC, a Utah  
limited liability company;  
AMERITITLE COMPANY; ZBS, LLC, an  
Idaho limited liability company;  
DEPATCO, INC., an Idaho Corporation;  
SCHIESS & ASSOCIATES, P.C., an  
Idaho Professional Services  
Corporation; HD SUPPLY  
WATERWORKS, LTD; DOES 1-3 and  
ALL PERSONS IN POSSESSION OF  
REAL PROPERTY DESCRIBED  
HEREIN,

Defendants.

**Case No. CV-2008-4395**

MEMORANDUM OF COSTS AND ATTORNEY'S  
FEES

---

ZBS, LLC, an Idaho limited liability company,

Counterclaimant/cross-claimant/third-party plaintiff

vs.

IDAHO DEVELOPMENT, LLC, a Utah limited liability company

Counter-defendant,

TETON VIEW GOLF ESTATES, LLC, a Utah limited liability company;  
AMERITITLE COMPANY;  
DEPATCO, INC., an Idaho Corporation;  
SCHIESS & ASSOCIATES, P.C., an Idaho Professional Services Corporation;  
HD SUPPLY WATERWORKS, LTD;

Cross-defendants,

ALLIANCE TITLE & ESCROW CORP., an Idaho corporation, as and only as trustee,  
IDAHO TITLE & TRUST, INC., as and only as trustee,  
DOES 1-20;

Third-party defendants.

---

Defendant/counterclaimant/ crossclaimant ZBS, LLC, by and through its counsel of record, Karl R. Decker of Holden Kidwell Hahn & Crapo, P.L.L.C., hereby submits this Memorandum of Costs and Attorneys Fees pursuant to Rule 54 of the Idaho Rules of Civil Procedure. By submitting this Memorandum, ZBS, LLCs is claiming the right, pursuant to the contract between the parties, Idaho Code §12-120(3) and Rule 54 of the Idaho Rules of Civil Procedure, to recover from Defendant, Teton View Golf Estates, LLC, the costs and fees set forth in the attached Affidavit.

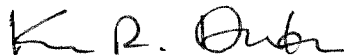
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To the best of the knowledge and belief of Karl R. Decker, the amounts set forth herein for fees are correct and such costs and fees are claimed by ZBS, LLC in compliance with Rule 54 of the Idaho Rules of Civil Procedure. This Memorandum of Costs and Attorneys Fees is supported by the Affidavit filed simultaneously with this Memorandum and incorporated herein by reference.

ZBS, LLC has incurred costs in the above-entitled action in the amount of \$1,033.12, which costs are specifically described and itemized in the Affidavit filed simultaneously with this Memorandum and incorporated herein by reference.

ZBS, LLC has incurred attorney's fees in the above-entitled action in the amount of \$57,004.00, which fees are specifically described and itemized in the Affidavit in Support of Memorandum of Costs and Attorneys Fees, filed simultaneously with this Memorandum and incorporated herein by reference.

DATED this 19 day of May, 2010.



Karl R. Decker  
Holden, Kidwell, Hahn & Crapo, P.L.L.C.  
attorneys for ZBS, LLC, Jim Zundel and  
Brad Zundel

G:\WPDATA\KRD\15389, ZBS LLC\03 Pleadings\Fees, Memorandum 2010-05-13.wpd

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on May 19, 2010, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered in accordance with Rule 5(b), I.R.C.P.

Persons Served:

Alan R. Harrison  
ALAN R. HARRISON LAW, PLLC  
497 N. Capital Avenue, Suite 210  
Idaho Falls ID 83402


☒ Mail ☐ Hand ☐ Fax

Jeffrey D. Brunson  
BEARD ST. CLAIR GAFFNEY, PA  
2105 Coronado Street  
Idaho Falls ID 83404-7495

☒ Mail ☐ Hand ☐ Fax

Mark Fuller  
FULLER & CARR  
410 Memorial Dr. St. 201  
PO Box 50935  
Idaho Falls ID 83405-0935

☒ Mail ☐ Hand ☐ Fax

  
Karl R. Decker

Karl R. Decker, ISB #3390  
Holden, Kidwell, Hahn & Crapo, P.L.L.C.  
1000 Riverwalk Drive, Suite 200  
P.O. Box 50130  
Idaho Falls, ID 83405  
Telephone 208-523-0620  
Facsimile 208-523-9518

Attorneys for ZBS, LLC

BONNEVILLE COUNTY

20 01 56

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

IDAHO DEVELOPMENT, LLC, a Utah  
limited liability company,

Plaintiff,

vs.

TETON VIEW GOLF ESTATES, LLC, a  
Utah limited liability company;  
ROTHCHILD PROPERTIES, LLC, a  
Utah limited liability company;  
WESTERN EQUITY, LLC, a Utah  
limited liability company;  
AMERITITLE COMPANY; ZBS, LLC, an  
Idaho limited liability company;  
DEPATCO, INC., an Idaho Corporation;  
SCHIESS & ASSOCIATES, P.C., an  
Idaho Professional Services  
Corporation; HD SUPPLY  
WATERWORKS, LTD; DOES 1-3 and  
ALL PERSONS IN POSSESSION OF  
REAL PROPERTY DESCRIBED  
HEREIN,

Defendants.

**Case No. CV-2008-4395**

AFFIDAVIT IN SUPPORT OF MEMORANDUM  
OF COSTS AND ATTORNEY'S FEES



---

ZBS, LLC, an Idaho limited liability company,

Counterclaimant/cross-claimant/third-party plaintiff

vs.

IDAHO DEVELOPMENT, LLC, a Utah limited liability company

Counter-defendant,

TETON VIEW GOLF ESTATES, LLC, a Utah limited liability company;  
AMERITITLE COMPANY;  
DEPATCO, INC., an Idaho Corporation;  
SCHIESS & ASSOCIATES, P.C., an Idaho Professional Services Corporation;  
HD SUPPLY WATERWORKS, LTD;

Cross-defendants,

ALLIANCE TITLE & ESCROW CORP., an Idaho corporation, as and only as trustee,  
IDAHO TITLE & TRUST, INC., as and only as trustee,  
DOES 1-20;

Third-party defendants.

---

STATE OF IDAHO                    )  
  )ss.  
County of Bonneville            )

I, KARL R. DECKER, do solemnly swear (or affirm) that the testimony given in this sworn statement is the truth, the whole truth, and nothing but the truth, that it is made on my personal knowledge, and that I would so testify in open court if called upon to do so.

And being so sworn I depose and say:

1. I am a member of the law firm of Holden, Kidwell, Hahn & Crapo, P.L.L.C., counsel for defendant/counterclaimant/ crossclaimant ZBS, LLC, in this matter. I have practiced law in Idaho continuously since September 27, 1985.
2. This Affidavit is made on my own personal knowledge, except to the extent of allegations made on information and belief, and in support of the ZBS, LLC's Memorandum of Costs and Attorneys Fees.
3. I am familiar with the prevailing charges in this community for legal work similar to that performed by the attorneys in this case.
4. I have reviewed the time and cost records of Holden, Kidwell, Hahn & Crapo, P.L.L.C. maintained on the above matter, and represent that, to the best of my knowledge and belief, the following items are claimed in compliance with Rule 54 of the Idaho Rules of Civil Procedure, are reasonable and were necessarily expended and incurred in the above entitled action on behalf of ZBS, LLC.
5. The law firm of Holden Kidwell Hahn & Crapo, P.L.L.C. has expended 274.50 hours in prosecuting the above-entitled action for the ZBS, LLC through May 13, 2010 . An itemization of the legal services provided by Holden Kidwell Hahn & Crapo, P.L.L.C. in connection with such matters is attached hereto as Exhibit 1. The law firm of Holden Kidwell Hahn & Crapo, P.L.L.C. has invoiced ZBS, LLC for the legal services itemized on Exhibit 1 attached hereto the total amount of \$57,004.00.
6. The obligation of ZBS, LLC to pay these attorney's fees is not contingent upon any event or occurrence.
7. The law firm of Holden Kidwell Hahn & Crapo, P.L.L.C. has incurred costs as a matter of right through May 13, 2010 in prosecuting the above-entitled action for ZBS, LLC in the amount of \$671.12. An itemization of the costs incurred by Holden Kidwell Hahn & Crapo, P.L.L.C. in connection with such matter is

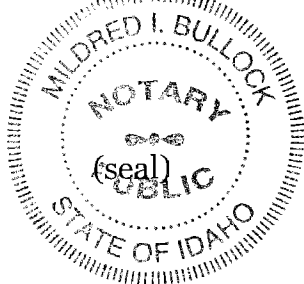
attached hereto as Exhibit 2. The law firm of Holden Kidwell Hahn & Crapo, P.L.L.C. has invoiced ZBS, LLC for the costs itemized on Exhibit 2 attached hereto the total amount of \$1,033.12.

8. The costs as a matter of right pursuant to I.R.Civ.P. 54(d)(1)(C) include filing fees in this matter.
9. The costs as a matter of right pursuant to I.R.Civ.P. 54(d)(1)(C) include the cost of a copy of depositions in this matter.
10. That discretionary costs of \$362.00, including \$12.00 for recording a Notice of Pending Litigation and \$350.00 as ZBS, LLC's share of the cost of court ordered mediation were necessarily incurred in litigating this matter, were reasonably incurred, and, further, that such costs are exceptional in that such costs are not required in all litigation, but because of the nature of a foreclosure action with court ordered mediation are necessary in such actions.
11. The obligation of ZBS, LLC to pay these costs is not contingent upon any event or occurrence.
12. The sum of \$58,037.12 represents a reasonable sum for costs and fees for services provided by the law firm of Holden Kidwell Hahn & Crapo, P.L.L.C. in prosecuting the above-entitled action on behalf of ZBS, LLC.

Dated: May 19, 2010

K. R. Decker  
KARL R. DECKER

SUBSCRIBED and sworn to before me this 19 day of May, 2010.



Mildred I. Bullock  
Notary Public for Idaho  
Residing at Blackfoot, Idaho  
My Commission Expires: 11/28/13

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on May 19, 2010, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered in accordance with Rule 5(b), I.R.C.P.

Persons Served:

Alan R. Harrison  
ALAN R. HARRISON LAW, PLLC  
497 N. Capital Avenue, Suite 210  
Idaho Falls ID 83402

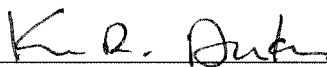
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PO Box 50935  
Idaho Falls ID 83405-0935

☒ Mail ☐ Hand ☐ Fax

  
\_\_\_\_\_  
Karl R. Decker

G:\WPDATA\KRD\15389, ZBS LLC\03 Pleadings\Fees, Affidavit 2010-05-13 wpd

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Jan 8/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Telephone conference with Billy G. DuPree regarding parties in foreclosure action. Review names for conflicts' check.
Jan 12/2009	KRD 0.50 Hrs X 210.00	0.50	105.00	Intraoffice conference regarding conflict issues. Review Idaho Case Repository report regarding appearance of attorneys for Schiess & Associates and Depatco.
Jan 13/2009	KRD 1.10 Hrs X 210.00	1.10	231.00	Work on conflict issues. Telephone conference with David Schiess, memo to file. Telephone conference with Billy DuPree regarding status of conflict resolution.
Jan 14/2009	KRD 0.50 Hrs X 210.00	0.50	105.00	Work on conflict regarding Depatco.
Jan 14/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Telephone conference with Alan Harrison regarding acceptance of service issues, conflict waiver issues, memo to file.
Jan 15/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Work on conflict waiver issue. Review voice message from Alan Harrison, memo to file. Telephone conference with Alan Harrison regarding conflict issues, memo to file.
Jan 16/2009	KRD 1.80 Hrs X 210.00	1.80	378.00	Confirm no conflict regarding Depatco. Telephone conference with Alan Harrison, memo to file. Telephone conference with Billy DuPree, memo to file. Preparation of engagement letter. Telephone conference with Alan Harrison to confirm that we received documents from him, memo to file. Preparation of engagement letter with ZBS, LLC.
Jan 20/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Preparation of correspondence to attorney Alan Harrison.
Jan 22/2009	KRD 2.10 Hrs X 210.00	2.10	441.00	Telephone conference with Jim Zundel regarding case issues, engagement letter, memo to file. Review correspondence from Billy DuPree with copy of documents from his file.
Jan 26/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review email from Jim Zundel with his contact information.
Jan 26/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Prepare and file notice of appearance in matter.
Jan 29/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Review emails from Billy DuPree regarding engagement. Preparation of email to Billy DuPree regarding status.
Feb 6/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review emails from Jim Zundel and Billy DuPree.
Feb 9/2009	KRD 0.40 Hrs X 210.00	0.40	84.00	Review emails from Jim Zundel.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Feb 16/2009	KRD 0.80 Hrs X 210.00	0.80	168.00	Review attachments to email from Jim Zundel. Telephone call to Jim Zundel, leave voice message, memo to file.
Feb 17/2009	KRD 0.50 Hrs X 210.00	0.50	105.00	Telephone conference with Jim Zundel regarding background facts and issues, memo to file. Reminder to file to review lien documents and evaluate priorities.
Feb 19/2009	KRD 1.10 Hrs X 210.00	1.10	231.00	Review email from Jim Zundel. Review email from Billy DuPree. Review loan application of Tony Versteeg for loan of \$3 million in 2 phases.
Feb 20/2009	KRD 0.70 Hrs X 210.00	0.70	147.00	Telephone conference with Alan Harrison, memo to file.
Feb 24/2009	KRD 0.40 Hrs X 210.00	0.40	84.00	Telephone conference with Jim Zundel regarding loan proposal, memo to file. Telephone conference with Alan Harrison regarding loan proposal issues, memo to file.
Feb 27/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review notice of appearance by attorney Jeffrey Brunson for Schiess & Associates
Mar 11/2009	KRD 0.40 Hrs X 210.00	0.40	84.00	Review email from Jim Zundel. Preparation of email to Jim Zundel regarding status of parties in matter.
Mar 25/2009	KRD 0.60 Hrs X 210.00	0.60	126.00	Telephone conference with Jim Zundel regarding default of some parties. Review case record on Idaho Case Repository database. Follow up requesting copy of pleadings to evaluate status of matter and develop advise for Jim Zundel.
Mar 27/2009	KRD 0.90 Hrs X 210.00	0.90	189.00	Review fax from Alan Harrison of default judgment against Teton View. Review official case docket. Preparation of correspondence to Jim Zundel regarding case issues.
Mar 30/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Review email from Jim Zundel.
Apr 1/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Review email from Jim Zundel regarding information that Depatco may have. Reply to email from Jim Zundel.
Apr 9/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review voice message from Steve Zundel regarding Depatco argument about priority, memo to file.
Apr 16/2009	KRD 1.90 Hrs X 210.00	1.90	399.00	Review voice message from Jim Zundel. Review Idaho case repository record. Telephone conferences with Jim Zundel regarding status and steps to take, memo to file. Telephone conference with Dan Beck at Fuller & Carr attorneys for Depatco. Review answer, counterclaim and third party complaint of Lynn Spafford and Tony Versteeg. Telephone conference with Alan Harrison, left voice message for him to call me.

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# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Apr 16/2009	KRD 0.40 Hrs X 210.00	0.40	84.00	Review pleadings filed by Spafford and Versteeg.
Apr 17/2009	KRD 1.30 Hrs X 210.00	1.30	273.00	Telephone conference with Alan Harrison regarding motion regarding default, memo to file. Conference with Alan Harrison.
Apr 21/2009	KRD 0.50 Hrs X 210.00	0.50	105.00	Review DePatco's first discovery requests to ZBS, LLC, Idaho Development LLC and Teton View Golf Estates.
Apr 22/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Review document received from Tony Versteeg and Lynn Spafford. Preparation of correspondence to Jim Zundel with discovery and other documents received in last two days. Preparation of correspondence to attorney Mark Fuller regarding exhibits referred to in discovery requests.
Apr 23/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review correspondence from Mark Fuller regarding exhibits to discovery requests. Review documents from Lynn Spafford and Tony Versteeg.
Apr 24/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Review voice message from Jim Zundel. Telephone conference with Jim Zundel regarding priority issues, memo to file.
Apr 25/2009	KRD 1.90 Hrs X 210.00	1.90	399.00	Review memorandum in support of Depatco's motion to set aside default, review Versteeg and Spafford's motion to set aside default, review Idaho Development's motion for entry of terms of default, review answer and cross claim of Depatco. Review loan documents.
Apr 28/2009	KRD 1.20 Hrs X 210.00	1.20	252.00	Review correspondence from attorney Douglass Hookland for HD Waterworks with memorandum in support of motion to vacated default. Review case docket. Preparation of email to Jim Zundel.
Apr 29/2009	GLM 0.50 Hrs X 225.00	0.50	112.50	Intraoffice conference concerning rights of member of limited liability company to be investors and creditors of company
Apr 29/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review Schiess & Associates joinder in opposition to plaintiff's motion for judgment on the pleadings.
Apr 29/2009	KRD 2.00 Hrs X 210.00	2.00	420.00	Intraoffice conference regarding equitable subordination argument. Review documents received today from attorneys for Schiess & Associates containing claims against Jim Zundel and Steve Zundel. Review pleadings. Review loan documents.
Apr 30/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Review issues to respond to motion to determine default judgment. Preparation of memorandum in opposition to motion to amend default judgment.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Apr 30/2009	KRD 1.00 Hrs X 210.00	1.00	210.00	Review fax from Alan R. Harrison of stipulation to set aside order of default and default judgment entered on March 16, 2009. Sign stipulation, email correspondence to Alan Harrison regarding stipulation. Review pleadings.
May 1/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review correspondence from Douglas Hookland regarding stipulation to set aside default.
May 4/2009	KRD 2.00 Hrs X 210.00	2.00	420.00	Telephone conference with Alan Harrison regarding stipulation to set aside default and default judgment. Appear at hearing, conference with counsel following hearing. Review signed stipulation as filed with the court. Review email from Jim Zundel regarding assumption by Teton View Golf of Schiess obligation. Review "Order to Set Aside Default and Default Judgment Entered on March 16, 2009" received from the court today.
May 5/2009	DLH 0.20 Hrs X 220.00	0.20	22.00	Conference with KRD regarding cross-claim
May 5/2009	KRD 2.00 Hrs X 210.00	2.00	420.00	Telephone conference with Debbie at Doug Hookland's office about acceptance of service of HD Waterworks claims against ZBS, LLC, memo to file. Intraoffice conference regarding third party procedure. Review email from Jim Zundel. Review answer of Schiess & Associate to cross claim filed by Depatco. Preparation of email to Jim Zundel regarding priority issues. Intraoffice conference with Dan Dansie regarding issues to research related to priority of liens.
May 5/2009	DD 0.20 Hrs X 125.00	0.20	25.00	Intraoffice conference with Karl Decker.
May 7/2009	DD 2.40 Hrs X 125.00	2.40	300.00	Review of documents and pleadings; computer-assisted legal research; review case law regarding foreclosure priority.
May 11/2009	KRD 0.60 Hrs X 210.00	0.60	126.00	Review correspondence from attorney Douglas Hookland received today including answer and cross claim. Execute acceptance of service.
May 11/2009	DD 2.40 Hrs X 125.00	2.40	300.00	Computer-assisted legal research regarding priority of material men's liens; draft memo to Karl Decker



# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
May 12/2009	KRD 1.00 Hrs X 210.00	1.00	210.00	Preparation of correspondence to Douglas Hookland with acceptance of service. Review documents from Douglas Hookland. Review documents received past few days from other attorneys. Telephone conference with Lois at First American Title requesting a copy of all instruments referred to in Litigation Guaranty 294068-IF issued to HD Supply Waterworks.
May 12/2009	DD 1.90 Hrs X 125.00	1.90	237.50	Continue drafting memo regarding priority of materialmens liens to Karl Decker.
May 13/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Review email from Lois at First American Title with copy of documents referred to in Litigation Guaranty filed by HD Waterworks.
May 14/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review plaintiffs answer to HD Supply Waterworks cross claim received today.
May 14/2009	KRD 0.70 Hrs X 210.00	0.70	147.00	Telephone conference with Jim Zundel regarding case issues, memo to file. Review file and discovery requests. Preparation of email to Jim Zundel with copy of discovery request of Depatco.
May 19/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Review email from Jim Zundel.
May 21/2009	KRD 2.50 Hrs X 210.00	2.50	525.00	Preparation of draft discovery responses for ZBS to Depatco's requests. Telephone conference with Jim Zundel regarding email with discovery requests. Review answers of Teton View Golf to Depatco's discovery. Review answer of Idaho Development to Schiess counterclaim.
May 22/2009	KRD 4.50 Hrs X 210.00	4.50	945.00	Review documents received from Idaho Development in response to discovery requests of Depatco. Telephone conference with Jim Zundel regarding documents to produce, memo to file. Review recorded documents in email from First American Title. Review email from Jim Zundel. Final draft of discovery response. Office conference with Steven Zundel executing discovery response.
May 27/2009	KRD 0.50 Hrs X 210.00	0.50	105.00	Review correspondence from Douglas Hookland regarding motion to serve defendants Teton View, Rothschild, Western Equity and Sandra MacArthur outside the state of Idaho. Review answer of Defendants Teton View Golf, Rothschild and Western Equity to cross-claim of Schiess & Associates.
Jun 1/2009	KRD 3.10 Hrs X 210.00	3.10	651.00	Preparation of draft answer to complaint of Idaho Development.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Jun 3/2009	DLH 0.20 Hrs X 220.00	0.20	44.00	Conference with Karl Decker regarding procedures for disclosure of electronic documents
Jun 3/2009	DD 0.30 Hrs X 125.00	0.30	37.50	Intraoffice conference with Karl Decker regarding priority issues.
Jun 3/2009	KRD 5.80 Hrs X 210.00	5.80	1218.00	Continue drafting answer. Intraoffice conference with Don Harris regarding discovery response with electronic documents. Begin preparation of counterclaim and cross-claim for foreclosure. Intraoffice conference with Dan Dansie regarding research of mechanic's lien priorities. Review documents from Jim Zundel via email. Evaluate documents for privilege. Research effect of recording deed of trust prior to obtaining title to property.
Jun 4/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Review cases regarding priority of mechanic's liens. Review Depatco's answer to Schiess cross claim. Notice of appearance of Kipp Manwaring for Sandra MacArthur.
Jun 5/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Review discovery response from Schiess & Associates.
Jun 9/2009	KRD 4.60 Hrs X 210.00	4.60	966.00	Continue drafting answer to complaint, counterclaim and cross-claim for foreclosure. Review order referring case to mediation. Preparation of correspondence to opposing counsel regarding nomination of Dwight Baker as mediator. Telephone conference with Jim Zundel regarding title insurance issues, memo to file.
Jun 9/2009	CAH 0.10 Hrs X 225.00	0.10	22.50	Interoffice conference
Jun 9/2009	DD 3.70 Hrs X 125.00	3.70	462.50	Computer assisted legal research regarding equitable subordination and reformation of instruments; draft memo regarding same issues to Karl Decker.
Jun 10/2009	DD 3.10 Hrs X 125.00	3.10	387.50	Additional computer assisted legal research related to priority issues; research LLC statutes in Utah and Idaho; edit and revise memorandum to Karl Decker.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Jun 10/2009	KRD 6.40 Hrs X 210.00	6.40	1344.00	Continue drafting counterclaim, cross-claim, third party complaint to assert ZBS claims for foreclosure of ZBS deed of trust. Telephone conference with Rich Hajek at AmeriTitle regarding closing date on ZBS sale to Teton View Golf Estates, memo to file. Evaluate documents from Jim Zundel. Telephone conference with AmeriTitle escrow department in Payette regarding payments on Teton View's promissory note to ZBS, memo to file. Preparation of interest calculation spreadsheet to calculate amount due today. Obtain and review partial release of ZBS deed of trust. Evaluate legal descriptions resulting from partial release.
Jun 11/2009	DD 0.30 Hrs X 125.00	0.30	37.50	Intraoffice conference with Karl Decker.
Jun 11/2009	KRD 1.20 Hrs X 210.00	1.20	252.00	Review documents. Continue drafting counterclaim, cross-claim, third-party complaint for foreclosure. Intraoffice conference with Dan Dansie regarding research results regarding equitable subordination, Utah limited liability company law. Review research memoranda regarding lien priority issues.
Jun 15/2009	KRD 3.20 Hrs X 210.00	3.20	672.00	Continue drafting answer and counterclaim for foreclosure, evaluate various legal descriptions used for property.
Jun 16/2009	DD 3.00 Hrs X 125.00	3.00	375.00	Computer assisted legal research regarding chain of title issue; draft memorandum analyzing research to Karl Decker.
Jun 16/2009	KRD 7.00 Hrs X 210.00	7.00	1470.00	Final draft of answer, counterclaim, cross-claim and third-party claim answering the Idaho Development complaint and setting out ZBS claim for foreclosure. Review claims in cross-claim of Teton View Golf Estates to confirm that no claims are raised against ZBS, Steve Zundel or Brad Zundel. Evaluate Depatco cross-claim. Preparation of answer to Depatco cross-claim. Telephone conference with Jim Zundel regarding reasons to get a litigation title report. Review claims of HD Supply. Preparation of answer to HD Supply. Preparation of answer for ZBS to Schiess cross-claim and third-party complaint. Telephone conference with Jim Zundel regarding contract issues with Schiess. Begin preparation of answer for Brad Zundel and Jim Zundel to Schiess third party complaint.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Jun 17/2009	DD 1.40 Hrs X 125.00	1.40	175.00	Additional computer-assisted legal research regarding chain of title issue; edit and revise memorandum to Karl Decker.
Jun 17/2009	KRD 3.90 Hrs X 210.00	3.90	819.00	Intraoffice conference regarding new waiver of conflict issue regarding Depatco, preparation of email to Jim Zundel regarding conflict of interest [.3 no charge]. Continue preparing answer to Schiess & Associates third party claim for Brad Zundel and Jim Zundel. Preparation of final draft of answers to third party complaint against Brad Zundel and Jim Zundel. Preparation of final revision of answer of ZBS to cross claims of Schiess & Associates, DePatco, and HD Supply. Preparation of final revision of answer to complaint of Idaho Development adding affirmative defenses. Preparation of lis pendens to record in county real property records to give notice of foreclosure of deed of trust. Record lis pendens in Bonneville County. Review third party defendants Melinda Boswell and David Clark's answer to third party complaints of Teton View and Rothschild. Review Idaho Development's reply and additional claims.
Jun 18/2009	KRD 1.10 Hrs X 210.00	1.10	231.00	Review correspondence from attorney Jeffrey Brunson for Schiess & Associates regarding service on Brad Zundel. Begin review of discovery responses of Schiess & Associates. Review email from Jeffrey Brunson regarding mediator selection. Preparation of email to Brad Zundel and Jim Zundel regarding answer to third party complaint.
Jun 18/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Intraoffice conference with Dan Dansie regarding research into chain of title issues on validity of deed of trust.
Jun 19/2009	KRD 0.90 Hrs X 210.00	0.90	189.00	Review documents in file. Review emails from attorneys approving Dwight Baker as mediator. Email counsel regarding schedule for selecting mediator. Review memo regarding telephone conference with to Alliance Title regarding service of process.
Jun 22/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review fax correspondence from Jeffrey Brunson regarding service on Jim Zundel and Brad Zundel. Review emails from counsel for MacArthur, HD Supply and Depatco regarding mediation.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Jun 23/2009	KRD 1.20 Hrs X 210.00	1.20	252.00	Preparation of correspondence to Idaho Title & Trust regarding acceptance of service of summons and third-party complaint. Preparation of draft stipulation for entry of judgment for Idaho Title & Trust. Preparation of draft stipulation for entry of judgment for Alliance Title & Escrow Corp. Preparation of draft stipulation for entry of judgment for AmeriTitle, Inc.
Jun 23/2009	KRD 0.70 Hrs X 210.00	0.70	147.00	Review recorded abstract of judgment. Review email from Jim Zundel. Telephone conference with Steve Zundel regarding communication of documents in case, case status, mediation process, memo to file.
Jun 24/2009	KRD 3.60 Hrs X 210.00	3.60	756.00	Review available dates for mediator Dwight Baker. Preparation of email to opposing counsel regarding available dates for mediation. Revise and final draft correspondence with acknowledgment of acceptance of service, and proposed stipulations for entry of judgment as to trustees on deeds of trust to Idaho Title & Trust, AmeriTitle, and Alliance Title. Review verification of discovery responses received today. Review discovery responses of Schiess & Associates. Telephone conference with Alan Harrison regarding mediation schedule, memo to file. Review email from Mark Fuller regarding mediation schedule. Review email from Alan Harrison regarding mediation schedule.
Jun 24/2009	DD 0.30 Hrs X 125.00	0.30	37.50	Intraoffice conference with Karl Decker regarding priority issues.
Jun 26/2009	KRD 0.50 Hrs X 210.00	0.50	105.00	Review email from parties regarding mediation schedule. Telephone conference with attorney Jeffrey Brunson, left voice message, memo to file. Telephone conference with attorney Kipp Manwaring, left voice message, memo to file. Review update of message from Jeffrey Brunson's office.
Jun 29/2009	KRD 1.30 Hrs X 210.00	1.30	273.00	Review schedule of availability for mediation. Telephone conference with attorney Mark Fuller regarding availability on August 10, 2009 for mediation, memo to file. Review email from Mark Fuller regarding mediation schedule. Preparation of correspondence to Dwight Baker, mediator, copy to parties, confirming mediation schedule for August 10, 2009 starting at 10:00 a.m.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Jun 30/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Schedule facilities for mediation on August 10, 2009.
Jun 30/2009	KRD 0.50 Hrs X 210.00	0.50	105.00	Review Acknowledgment of Acceptance of Service from Idaho Title & Trust. Review Stipulation for Entry of Judgment from Idaho Title & Trust. File documents from Idaho Title & Trust with court.
Jun 30/2009	DD 2.50 Hrs X 125.00	2.50	312.50	Computer assisted legal research regarding priority issues related to mechanic's liens.
Jul 2/2009	KRD 0.70 Hrs X 210.00	0.70	147.00	Intraoffice conference with Dan Dansie regarding facts related to research memorandum. Review correspondence from attorney Dick Mollerup with notice of appearance in matter. Review correspondence from mediator Dwight Baker with mediation agreement and rules for mediation.
Jul 2/2009	DD 2.70 Hrs X 125.00	2.70	337.50	Additional computer assisted legal research regarding mechanic's liens; draft memorandum to Karl Decker regarding effect of a contract of sale on the priority of a mechanic's lien.
Jul 6/2009	KRD 0.40 Hrs X 210.00	0.40	84.00	Work on mediation scheduling issues. Preparation of notice of schedule of mediation to file with the court. Preparation of correspondence to Steve Zundel with copy of mediation agreement. File notice of scheduling of mediation. File acceptance of service by Alliance Title.
Jul 10/2009	KRD 0.60 Hrs X 210.00	0.60	126.00	Review voice message from Lynn Spafford. Telephone conference with Lynn Spafford, memo to file.
Jul 13/2009	KRD 1.30 Hrs X 210.00	1.30	273.00	Review motion for summary judgment filed by DePatco. Review fax motion to strike or dismiss filed by Spafford and Versteeg as members of Teton View Golf Estates regarding "additional claims" filed by Idaho Development, LLC. Review email from Jim Zundel with closing statement showing \$75.00 charge to ZBS for issuance of lender's policy of title insurance. Preparation of correspondence to Steven Zundel requesting information about title insurance policy. Review notice of non-participation in mediation by Alliance Title. Review Schiess answer to ZBS. Review Idaho Development to ZBS. Review research memorandum regarding effect of contract on mechanic's lien rights.
Jul 14/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Calendar hearing on DePatco motion for summary judgment for August 10, 2009. Preparation of correspondence to Steven Zundel and Jim Zundel.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Jul 15/2009	KRD 0.50 Hrs X 210.00	0.50	105.00	Review email from Rich Hajek regarding stipulation for foreclosure. Revise draft stipulation and email to Rich Hajek.
Jul 17/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review Stipulation for entry of judgment received from AmeriTitle.
Jul 20/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Review email from Teton View Golf Estates regarding motion to continue hearing on motion for summary judgment.
Jul 20/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Review correspondence from Lynn Spafford.
Jul 24/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review objection to motion to continue, forward copy to client.
Jul 31/2009	KRD 0.90 Hrs X 210.00	0.90	189.00	Review discovery responses of Idaho Development.
Aug 3/2009	KRD 0.50 Hrs X 210.00	0.50	105.00	Review documents from Lynn Spafford: motion to withdraw memorandum in support of motion to amend requests for admission; notice of service, amended answer to Depatco's request for admissions.
Aug 4/2009	KRD 5.00 Hrs X 210.00	5.00	1050.00	Review correspondence from Lynn Spafford including: notice of hearing, notice of non-participation, memorandum in opposition to motion for summary judgment, affidavit of Jeffrey A. Burton, affidavit of Steven K. Walker. Review project plans and project plat. Site visit regarding allegations that DePatco removed installed valves. Preparation of correspondence to Steven Zundel copy of documents from Lynn Spafford. Telephone conference with Jim Zundel regarding mediation issues, discovery of possible damage to installed water system by DePatco, memo to file. Begin preparation of draft confidential mediation statement of ZBS.
Aug 5/2009	KRD 4.50 Hrs X 210.00	4.50	945.00	Continue preparation of draft confidential mediation statement.
Aug 10/2009	KRD 13.60 Hrs X 210.00	13.60	2856.00	Review pleadings from DePatco and from Teton View received Thursday, Friday and Today. Appear at hearing on DePatco's motion for summary judgment. Appear and participate in all day mediation session.
Aug 11/2009	KRD 1.10 Hrs X 210.00		231.00	Memo to file regarding mediation. Review discovery documents and pleadings received from opposing parties. Office conference with City Attorney Dale Storer regarding application of Annexation Agreement if settlement is not reached.

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# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Aug 12/2009	KRD 0.80 Hrs X 210.00	0.30	168.00	Telephone conference with Alan Harrison regarding his success in resolving matters with Spafford and Versteeg to get them to sign stipulation, memo to file regarding how he would like to proceed. Preparation of email to Jim Zundel regarding settlement issues.
Aug 17/2009	KRD 0.70 Hrs X 210.00	0.70	147.00	Review correspondence from Alan Harrison regarding settlement. Review attached pleadings.
Aug 26/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review order adopting stipulation.
Aug 28/2009	KRD 0.40 Hrs X 210.00	0.40	84.00	Telephone conference with Alan Harrison regarding ZBS settlement amounts, memo to file. Preparation of email to Alan Harrison
Aug 31/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Review email from Alan Harrison.
Oct 16/2009	KRD 0.50 Hrs X 210.00	0.50	105.00	Review email from Alan Harrison. Review email from Mark Fuller. Forward copies to Jim Zundel.
Oct 19/2009	KRD 0.70 Hrs X 210.00	0.70	147.00	Review email from Jim Zundel. Review voice message from Mark Fuller. Preparation of email to Mark Fuller regarding merits of equitable subordination argument. Forward copy to Jim Zundel. Review voice message from Jim Zundel. Telephone conference with Jim Zundel.
Oct 20/2009	GLM 1.60 Hrs X 225.00	1.60	360.00	Conference with KRD concerning equitable subordination, research equitable subordination
Oct 20/2009	KRD 2.70 Hrs X 210.00	2.70	567.00	Review information from Mark Fuller regarding equitable subordination argument. Intraoffice conference with GLM. Review equitable subordination research. Telephone conferences with Jim Zundel, memo to file.
Oct 21/2009	DLH 0.40 Hrs X 220.00	0.40	88.00	Conference with KRD regarding summary judgment (equitable subordination)
Oct 21/2009	KRD 5.20 Hrs X 210.00	5.20	1092.00	Review Alaska case. Additional research of cases related to equitable subordination arguments. Intraoffice conference with DLH. Telephone conference with Mark Fuller regarding summary judgment motion. Telephone conference with Jim Zundel, memo to file. Preparation of correspondence to Jim Zundel regarding equitable subordination issues.
Oct 22/2009	KRD 0.90 Hrs X 210.00	0.90	189.00	Review voice message from Jim Zundel. Telephone conference with Jim Zundel regarding effect of change in ownership, memo to file.
Nov 4/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Review email from Mark Fuller regarding settlement with HD Supply, forward to Jim Zundel.



# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Nov 9/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Review file for legal description of affected property.
Nov 9/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Review email from Mark Fuller regarding settlement with HD Supply. Forward copy to Jim Zundel requesting confirmation that it is acceptable to ZBS.
Nov 12/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Review status. Telephone conference with Jim Zundel regarding stipulation to release HD Supply, memo to file.
Nov 17/2009	KRD 0.70 Hrs X 210.00	0.70	147.00	Review email from Jim Zundel. Review email from Mark Fuller. Review and execute release documents, email to Mark Fuller.
Dec 4/2009	KRD 0.10 Hrs X 210.00	0.10	21.00	Review order dismissing HD Supply received from Bonneville County Court.
Dec 16/2009	KRD 0.30 Hrs X 210.00	0.30	63.00	Review "affidavit of default" received from Mark Fuller. Preparation of email correspondence to Jim Zundel.
Dec 22/2009	KRD 0.20 Hrs X 210.00	0.20	42.00	Telephone conference with Jim Zundel. Telephone conference with Steve Zundel.
Jan 6/2010	KRD 0.80 Hrs X 210.00	0.80	168.00	Review motion for summary judgment and affidavit in support of motion for summary judgment regarding plaintiff's priority filed by DePatco.
Jan 8/2010	KRD 0.40 Hrs X 210.00	0.40	84.00	Review voice message from Mark Fuller. Telephone conference with Mark Fuller, memo to file. Telephone conference with Steve Zundel, memo to file.
Jan 12/2010	KRD 0.80 Hrs X 210.00	0.80	168.00	Telephone conference with Steve Zundel regarding schedule for meeting with DePatco, memo to file. Telephone conference with Jim Zundel, memo to file.
Jan 14/2010	KRD 0.30 Hrs X 210.00	0.30	63.00	Review email from Brad Zundel. Preparation of email to Mark Fuller.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Jan 19/2010	KRD 4.30 Hrs X 210.00	4.30	903.00	Review email from Brad Zundel. Telephone conference with Mark Fuller's office, left voice message for Mark to call to schedule meeting. Review memorandum in support of motion for summary judgment to evaluate argument. Computer-aided legal research regarding cases cited by DePatco. Telephone conference with Mark Fuller tentatively scheduling meeting for Friday this week. Preparation of email to Brad Zundel and Jim Zundel. Telephone conference with Mark Fuller, voice message regarding time to meet on Friday. Telephone conference with Steve Zundel, memo to file. Email Brad Zundel and Jim Zundel regarding time for meeting. Telephone conference with Brad Zundel, memo to file.
Jan 20/2010	KRD 2.00 Hrs X 210.00	2.00	420.00	Telephone conference with Mark Fuller confirming meeting, memo to file. Continue research cases and authorities cited by DePatco's brief in support of motion for summary judgment.
Jan 20/2010	KRD 1.10 Hrs X 210.00	1.10	231.00	Continue research regarding equitable subordination of recharacterization of debt to equity.
Jan 21/2010	KRD 2.50 Hrs X 210.00	2.50	525.00	Continue research regarding equitable subordination or recharacterization of debt to equity.
Jan 22/2010	KRD 4.30 Hrs X 210.00	4.30	903.00	Continue research regarding equitable subordination. Prepare for meeting with Mark Fuller and Greg Stoddard. Meeting with Mark Fuller and Greg Stoddard, memo to file. Telephone conference with Brad Zundel regarding meeting schedule, memo to file that the meeting was cancelled. Telephone conference with Steve Zundel regarding case issues, Melinda's involvement in corporation that defrauded, memo to file.
Jan 25/2010	KRD 1.10 Hrs X 210.00	1.10	231.00	Review Schiess & Associates response to DePatco's Motion for Summary Judgment. Preparation of response to DePatco's Motion for Summary Judgment.
Jan 27/2010	KRD 3.30 Hrs X 210.00	3.30	693.00	Review email from Alan Harrison. Review Idaho Development's response to DePatco's motion for summary judgment, forward copy to clients. Review voice message from Jim Zundel. Telephone Jim Zundel, memo to file. Review cases cited by Idaho Development.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Jan 28/2010	KRD 0.90 Hrs X 210.00	0.90	189.00	Review cases cited by Idaho Development.
Feb 3/2010	KRD 1.40 Hrs X 210.00	1.40	294.00	Review email from Mark Fuller. Review documents from parties regarding motion for summary judgment response.
Feb 4/2010	KRD 0.20 Hrs X 210.00	0.20	42.00	Telephone call from Mark Fuller regarding status and issues on summary judgment, memo to file.
Feb 8/2010	KRD 2.90 Hrs X 210.00	2.90	609.00	Hearing preparation. Telephone call with Jim Zundel, memo to file. Appear at hearing. Conference with parties and counsel following hearing.
Feb 9/2010	KRD 1.10 Hrs X 210.00	1.10	231.00	Telephone call from Jim Zundel, memo to file. Review minute entry from court, forward copy to clients. Review email from Mark Fuller. Review correspondence from Jeffrey Brunson regarding deposition schedule.
Feb 10/2010	KRD 0.10 Hrs X 210.00	0.10	21.00	Review correspondence from Alan Harrison regarding deposition schedule.
Feb 11/2010	KRD 0.30 Hrs X 210.00	0.30	63.00	Review email from Mark Fuller regarding deposition schedule, calendar tentative date for March 5, 2010, email Jim and Brad with date.
Feb 24/2010	KRD 0.20 Hrs X 210.00	0.20	42.00	Review correspondence from Mark Fuller with copies of notices of deposition and subpoena duces tecum of David Clark and Melinda Boswell.
Feb 25/2010	KRD 0.80 Hrs X 210.00	0.80	168.00	Review discovery requests from Schiess & Associates. Review case deadlines, last date to serve discovery by hand delivery or fax is 2/27/2010.
Feb 26/2010	KRD 4.60 Hrs X 210.00	4.60	966.00	Preparation of first discovery requests to Idaho Development, Schiess & Associates, and DePatco.
Mar 1/2010	KRD 0.20 Hrs X 210.00	0.20	42.00	Review voice message from Mark Fuller. Telephone call Mark Fuller
Mar 2/2010	KRD 1.20 Hrs X 210.00	1.20	252.00	Review discovery requests from Idaho Development. Telephone Jim Zundel regarding request for meeting. Telephone Steve Zundel regarding request for meeting. Telephone conference with Mark Fuller, memo to file.
Mar 3/2010	KRD 0.20 Hrs X 210.00	0.20	42.00	Review email from Jim Zundel.
Mar 5/2010	KRD 6.50 Hrs X 210.00	6.50	1365.00	Prepare for depositions of Melinda Boswell and David Clark. Appear and examine at depositions of Melinda Boswell and David Clark. Conference with parties and counsel immediately following depositions.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Mar 8/2010	KRD 0.20 Hrs X 210.00	0.20	42.00	Review subpoena for records of AmeriTitle received from Idaho Development.
Mar 8/2010	KRD 1.90 Hrs X 210.00	1.90	399.00	Review subpoena from Alan Harrison to AmeriTitle. Telephone Mark Fuller regarding status following depositions, memo to file. Review correspondence from Alan Harrison, respond with copy of discovery requests. Review correspondence from Jeffrey Brunson with supplemental discovery responses of Schiess & Associates, P.C., identifying expert witnesses. Review correspondence from Mark Fuller with partial motion for summary judgment regarding lien claim of Schiess & Associates.
Mar 9/2010	KRD 0.10 Hrs X 210.00	0.10	21.00	Review email from Alan Harrison.
Mar 10/2010	KRD 0.30 Hrs X 210.00	0.30	63.00	Review correspondence from Mark Fuller regarding production of additional documents as agreed in deposition. Review email correspondence from Mark Fuller regarding deposition of Schiess experts.
Mar 12/2010	KRD 0.70 Hrs X 210.00	0.70	147.00	Review email from Jeff Brunson regarding deposition of Kurt Roland. Review voice message from Jim Zundel. Telephone Jim Zundel regarding status, issues.
Mar 15/2010	KRD 0.30 Hrs X 210.00	0.30	63.00	Telephone conference with Mark Fuller, memo to file. Review email from Alan Harrison.
Mar 15/2010	KRD 0.20 Hrs X 210.00	0.20	42.00	Review settlement correspondence from Alan Harrison.
Mar 16/2010	KRD 0.60 Hrs X 210.00	0.60	126.00	Preparation of correspondence to Jim Zundel and Brad Zundel forwarding email from Alan Harrison, preparation of correspondence to Steve Zundel with hard copy of correspondence.
Mar 19/2010	KRD 0.40 Hrs X 210.00	0.40	84.00	Review order changing hearing date. Prepare email to Jim Zundel and Brad Zundel, mail copy to Steve Zundel.
Mar 19/2010	KRD 0.20 Hrs X 210.00	0.20	42.00	Review email from Jim Zundel. Telephone Jim Zundel, memo to file.
Mar 22/2010	KRD 1.40 Hrs X 210.00	1.40	294.00	Review documents from AmeriTitle. Review correspondence with summary judgment response of Schiess & Associates including memorandum in opposition, affidavits of Kurt Roland, David Schiess, and Lance Schuster.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Mar 23/2010	KRD 2.30 Hrs X 210.00	2.30	483.00	Telephone Alan Harrison regarding documents from AmeriTitle, memo to file. Review documents from AmeriTitle, forward copy to clients. Telephone conference with Jim Zundel regarding case settlement issues. Review fax from Lance Schuster for Schiess s& Associates.
Mar 24/2010	KRD 8.00 Hrs X 210.00	0.80	1680.00	Review documents to produce in response to discovery requests. Draft discovery responses: ZBS to Schiess requests; Jim Zundel to Schiess requests; Brad Zundel to Schiess requests; ZBS to Idaho Development requests. Telephone conference with Jim Zundel, memo to file. Email discovery responses for review by Jim Zundel and Brad Zundel.
Mar 24/2010	KRD 0.20 Hrs X 210.00	0.20	42.00	Email transcript of Boswell and Clark depositions to Jim Zundel and Brad Zundel.
Mar 26/2010	KRD 1.50 Hrs X 210.00	1.50	315.00	Prepare draft letter to email to counsel re settlement issues. Email draft to Jim Zundel for review.
Mar 29/2010	KRD 0.60 Hrs X 210.00	0.60	126.00	Review email from Jim Zundel. Email correspondence to opposing counsel.
Apr 2/2010	KRD 0.40 Hrs X 210.00	0.40	84.00	Review discovery responses received from parties.
Apr 3/2010	KRD 1.10 Hrs X 210.00	1.10	231.00	Review appraisal of property received from Idaho Development.
Apr 5/2010	KRD 2.90 Hrs X 210.00	2.90	609.00	Telephone conference with Mark Fuller regarding summary judgment decision, memo to file. Review email copy of summary judgment decision. Review email from Mark Fuller regarding deposition of Schiess witnesses. Review email from Alan Harrison regarding settlement offer. Preparation of response email to Alan Harrison regarding settlement in light of summary judgment. Preparation of email to Jim Zundel and Brad Zundel with copy of order granting summary judgment. Review discovery responses accumulated last week. Telephone conference with Jim Zundel regarding summary judgment order, memo to file.
Apr 5/2010	KRD 1.50 Hrs X 210.00	1.50	315.00	Review motion for summary judgment filed by Schiess Engineering. Preparation of draft motion for summary judgment. Preparation of draft memorandum in support of motion for summary judgment.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Apr 6/2010	KRD 6.10 Hrs X 210.00	6.10	1281.00	Telephone conferences with Jim Zundel, memo to file. Preparation of draft affidavit of Steve Zundel regarding motion for summary judgment. Preparation of draft affidavit of Jim Zundel regarding motion for summary judgment. Preparation of final draft of motion, memorandum, affidavits for Steve and Jim, notice of hearing. Preparation of correspondence to clerk of court to file documents. File documents with court.
Apr 6/2010	KRD 0.70 Hrs X 210.00	0.70	147.00	Review motion for summary judgment and default judgment against Teton View received from Schiess Engineering. Review revised motion for summary judgment received from DePatco.
Apr 7/2010	KRD 1.00 Hrs X 210.00	1.00	210.00	Intraoffice conference with DLH regarding deemed admissions served on Teton View. Intraoffice conference with Dan Dansie regarding issues to address in response memorandum to Schiess & Associates motion for summary judgment.
Apr 7/2010	DLH 0.30 Hrs X 220.00	0.30	66.00	Conference with KRD regarding effect of admissions by adverse party
Apr 7/2010	DD 0.20 Hrs X 130.00	0.20	26.00	Intraoffice conference with Karl Decker regarding motion for summary judgment.
Apr 12/2010	KRD 0.90 Hrs X 210.00	0.90	189.00	Review fax from Beard St. Clair & Gaffney. Review email from Jeff Brunson, forward copy to Jim Zundel and Brad Zundel. Telephone call from Mark Fuller regarding status, memo to file.
Apr 13/2010	KRD 1.70 Hrs X 210.00	1.70	357.00	Review voice message from Mark Fuller. Telephone conference with Mark Fuller. Telephone conference with Jim Zundel, memo to file. Review case issues.
Apr 14/2010	KRD 1.40 Hrs X 210.00	1.40	294.00	Telephone conference with Mark Fuller regarding tentative meeting time tomorrow at 11:00 a.m., memo to file. Review voice message from Jim Zundel. Telephone conference with Jeff Brunson. Telephone conference with Dan Beck. Telephone conference with Jim Zundel, memo to file. Telephone conference with Dan Beck, memo to file. Intraoffice conference Dan Dansie regarding research project for response to Schiess's motion for summary judgment.
Apr 14/2010	DD 2.60 Hrs X 130.00	2.60	338.00	Review motions for summary judgment filed by ZBS and Schiess; computer assisted legal research regarding MSJ issues; prepare outline for responsive briefs; intra office conference with Karl Decker.

# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Apr 15/2010	KRD 6.00 Hrs X 210.00	6.00	1260.00	Review email from Dan Beck with draft settlement agreement. Forward draft settlement agreement to Jim Zundel. Calculate amount due ZBS on Teton View note. Telephone conferences with Jim Zundel. Revise draft agreement, email to Mark Fuller. Telephone conference with Mark Fuller. Telephone conference with Jim Zundel regarding revisions requested by Schiess.
Apr 16/2010	KRD 1.70 Hrs X 210.00	1.70	357.00	Review email from Jim Zundel regarding settlement agreement terms. Review voice message from Dan Beck regarding email. Review email from Dan Beck with final settlement agreement. Review email from Jim Zundel. Email final settlement agreement to Jim Zundel. Review email from Dan Beck approving changes. Telephone conference with Jim Zundel regarding final version, memo to file. Telephone conference with Jeff Brunson regarding disagreement with terms.
Apr 19/2010	KRD 0.20 Hrs X 210.00	0.20	42.00	Telephone conference with Jim Zundel regarding final terms of stipulation. Supervise forwarding of signatures.
Apr 20/2010	KRD 1.10 Hrs X 210.00	1.10	231.00	Review final stipulation signatures. Review voice message from Alan Harrison. Review voice message from Jim Zundel. Telephone conference with Jim Zundel, memo to file. Review correspondence from Schiess & Associates regarding motion for summary judgment. Telephone conference with Alan Harrison, memo to file.
Apr 21/2010	DLH 0.10 Hrs X 220.00	0.10	22.00	Conference with KRD regarding summary judgment
Apr 21/2010	KRD 1.90 Hrs X 210.00	1.90	399.00	Review fax correspondence from Mark Fuller with notice vacating hearing, notice of hearing on motion for order approving settlement agreement. Intraoffice conference with DLH regarding summary judgment. Telephone conference with Alan Harrison, memo to file. Hearing preparations.
Apr 22/2010	KRD 2.60 Hrs X 210.00	2.60	546.00	Review response brief and supporting affidavits from Idaho Development, copy to clients. Final draft default application regarding Idaho Title & Trust. Final draft notice of intent to take default against AmeriTitle. Telephone conference with Mark Fuller, memo to file. Review file for Stipulation for entry of judgment against AmeriTitle.
Apr 22/2010	KRD 0.70 Hrs X 210.00	0.70	147.00	Review arguments in Idaho Development's response to ZBS motion for summary judgment.

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# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
Apr 23/2010	KRD 0.10 Hrs X 210.00	0.10	21.00	Review issues.
Apr 26/2010	KRD 4.90 Hrs X 210.00	4.90	1029.00	Telephone conference with Dick Mollerup regarding stipulation of AmeriTitle. Review voice message from Jim Zundel. Telephone conference with Jim Zundel, memo to file. Review email from Dick Mollerup regarding stipulation. Begin preparation of draft reply brief. Begin preparation of draft affidavit for Jim Zundel.
Apr 27/2010	KRD 4.60 Hrs X 210.00	4.60	966.00	Continue drafting reply brief. Preparation of email to Jim Zundel with draft affidavit. Telephone conference with Jim Zundel, memo to file. Research cases regarding subordination agreement provisions. Review email from Jim Zundel. Final draft of reply brief. File documents with court and serve on opposing parties. Email Jim Zundel regarding status of reply.
Apr 29/2010	KRD 0.50 Hrs X 210.00	0.50	105.00	Review document from Idaho Development opposing approval of the settlement agreement. Review voice message from Dick Mollerup regarding intent to take default. Telephone conference with Dick Mollerup regarding matter, memo to file.
May 1/2010	KRD 0.10 Hrs X 210.00	0.10	21.00	Review voice message from Dick Mollerup.
May 3/2010	KRD 2.40 Hrs X 210.00	2.40	504.00	Telephone conference with Dick Mollerup regarding pending notice of intent to take default regarding Alliance Title, memo to file. Review email from Dick Mollerup with draft response pleading. Telephone conference with Mark Fuller regarding Alliance Title position. Preparation of email to Dick Mollerup regarding default issues with respect to Alliance Title.
May 4/2010	KRD 4.50 Hrs X 210.00	4.50	945.00	Prepare for hearing on summary judgment motion. Review correspondence from Alliance Title's attorney with "answer" filed by Alliance Title. Appear at hearing on motion for summary judgment against Teton View, receive favorable ruling. Discuss case issues with opposing counsel following hearing. Review motion and affidavits in support of motion for reconsideration filed by plaintiff's attorney at hearing. Telephone conference with Jim Zundel. Preparation of email to Jim and Brad, hardcopy to Steve, of hearing results.
May 5/2010	KRD 0.10 Hrs X 210.00	0.10	21.00	Review email from Tammie Whyte regarding Idaho Title & Trust.

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# EXHIBIT 1

Date	Lawyer/Hours /Rate	Hours	Fees	Description
May 6/2010	KRD 3.60 Hrs X 210.00	3.60	756.00	Review order of default regarding Teton View in favor of ZBS from court. Review notice of hearing on motion to reconsider. Review order of default regarding Teton View in favor of Schiess from court. Review email from Jeffrey Brunson regarding Schiess amount due. Preparation of draft summary judgment order, decree of foreclosure and order of sale. Preparation of email to counsel for DePatco and Schiess & Associates regarding draft order, decree of foreclosure and order of sale.
May 7/2010	KRD 3.10 Hrs X 210.00	3.10	651.00	Review email from Mark Fuller regarding draft order. Telephone conference with Mark Fuller, memo to file. Telephone conference with Jeff Brunson regarding draft order. Revise draft order. Preparation of correspondence to court presenting draft order for consideration. Review plaintiff's motion to reconsider. Review fax correspondence from Jeff Brunson with copy of affidavit of interest, and copy of proposed stipulation for dismissal of Jim Zundel and Brad Zundel.
May 11/2010	KRD 0.50 Hrs X 210.00	0.50	105.00	Review emails from Mark Fuller. Review copy of Judgment, Decree of Foreclosure and Order of Sale. Preparation of email to Mark Fuller. Preparation of email to Jim Zundel and Brad Zundel.
May 12/2010	KRD 0.60 Hrs X 210.00	0.60	126.00	Review email from Mark Fuller regarding fee applications. Review draft stipulation from Jeff Brunson. Telephone conference with Jeff Brunson regarding draft stipulation.
May 13/2010	KRD 4.00 Hrs X 210.00	4.00	840.00	Review email from Jeff Brunson. Review proposed stipulation. Preparation of memorandum of costs and attorney's fees, affidavit in support of memorandum of costs and attorney's fees, exhibits 1 and 2 to affidavit.
		274.50	\$57,004.00	

## EXHIBIT 2

### Costs as a Matter of Right

Date	Rule	Amount	Description
Jan 26/2009	54(d)(1)(C)(1)		Filing fee - Bonneville County
		\$58.00	
Jun 17/2009	54(d)(1)(C)(1)		Filing fee - Bonneville County
		\$28.00	
Mar 26/2010	54(d)(1)(C)(10)	\$585.12	Copies of depositions of Melinda Boswell & David Clark -
			T & T Reporting
		<u>\$671.12</u>	

### Discretionary Costs

Date	Rule	Amount	Description
Jun 17/2009	54(d)(1)(D)		Recording fee for Lis Pendens -Bonneville County
		\$12.00	
Aug 13/2009	54(d)(1)(D)		Proportionate share of mediation fee - Baker & Harris
		<u>\$350.00</u>	
		\$362.00	

TOTAL COSTS \$1,033.12